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A JOINT COMMITTEE OF THE PENNSYLVANIA GENERAL ASSEMBLY

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A SUNSET PERFORMANCE AUDIT
OF THE
PENNSYLVANIA STATE ATHLETIC COMMISSION

Pursuant to Act 1981-142

February 1987

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I. INTRODUCTION

A. Act 142 Mandate

With passage of Act 1981-142, 71 P.S. §1795.1 et seq., Pennsylvania joins approximately 35 other states which have enacted sunset legislation since the mid 1970s. Act 142 creates a mechanism which compels the Legislature to evaluate state agencies in a systematic manner to determine the continuing value of their existence. It is also intended to determine whether agencies are operating in the public interest and to suggest ways in which their effectiveness and efficiency can be enhanced.

The Pennsylvania Sunset Act creates an ongoing process for the review of 74 specific state agencies during the period 1983-87. In addition, all agencies created after the passage of Act 1981-142, as amended by Act 1982-310, are subject to sunset review after a period of ten years from their creation and for ten-year cycles thereafter. Unless the General Assembly takes positive action to recreate an agency under sunset review, it will automatically terminate as scheduled in Act 142 or, if applicable, at the end of its ten-year cycle.

B. Sunset Criteria

The law sets forth criteria on which a determination as to whether the agency shall be continued, altered, or terminated should be based. These criteria are:

1. Whether termination would significantly harm or endanger the public health, safety or welfare.
2. Whether overlap or duplication of effort by other agencies would permit termination of the agency.
3. Whether a more economical way of achieving the agency's objectives exists.
4. Whether, based on service to the public, there is a demonstrated need for the continued existence of the agency.
5. Whether the agency's operation has been in the public interest.
6. Whether the public participation has been encouraged by the agency's rule-making and decision-making processes, or whether only persons regulated by the agency participate in these processes.
7. Whether the agency's services may be provided in an alternate, less restrictive way.
8. Other criteria established by the standing committees.

C. The LB&FC and the Sunset Performance Audit

Act 142 also charges the LB&FC with various sunset review responsibilities. At the beginning of the sunset evaluation process, a plan for the review of each agency is to be developed by the appropriate standing committee in conjunction with the LB&FC. More significantly, however, the LB&FC is to complete a performance audit of each agency scheduled for termination by March 1 of the termination year. These performance audits are to be presented to the appropriate standing committees for use in their sunset deliberations.

A sunset performance audit is defined by Act 142 as:

A written report by the Legislative Budget and Finance Committee evaluating the management and performance of an agency based on the statistics on its operations and carried out in accordance with standards for performance and financial compliance auditing developed by the United States General Accounting Office. [According to the GAO, the term performance audit is synonymous with "operational audit" and describes an audit that is concerned with economy, efficiency and program results.]

LB&FC performance audits are to determine whether the activities of the agency under sunset review are: (1) consistent with the objectives intended by the General Assembly and (2) conducted in a faithful, efficient, economical and effective manner. The staff's performance audits are also to include the sunset criteria to be used by standing committees in determining the fate of the agencies under sunset review (see page 1).

To help assure that the LB&FC's performance audit duties will not be impeded, the Sunset Act grants the LB&FC access to all pertinent documents and personnel of Commonwealth agencies. Also, the LB&FC is empowered, with the approval of the House and Senate, to subpoena witnesses and records on sunset matters and to take testimony and depositions with the same power and authority as courts of record.

D. Sunset Review and Termination/Continuation Timetable

Sunset review differs from other forms of legislative program evaluation in a most significant way--it automatically requires the evaluation and, unless the Legislature acts otherwise, the termination of state agencies at a scheduled date. Act 1981-142, as amended by Act 1982-310, calls for sunset review of Pennsylvania agencies once every ten years. The 74 entities cited in the Act are divided into three review cycles (1983, 1985, and 1987). The termination date for the State Athletic Commission, which is included in the 1987 cycle, is December 31, 1987. Act 142 states that the Pennsylvania sunset cycle shall meet the following timetable during each termination year (1987 for the State Athletic Commission):

1. January - The Leadership Committee assigns responsibility for the review and evaluation of each agency to an appropriate standing committee of the House and Senate. (The Leadership Committee has designated the House State Government Committee as the sunset review committee for the State Athletic Commission.)
2. On or before March 1 - The responsible standing committee shall receive the following information for each agency that it is reviewing:
 - a. a performance audit or summary audit from the LB&FC and
 - b. a report on all pertinent statutes from the Legislative Reference Bureau.
3. On or before the first session day of September - The standing committee presents to the General Assembly a report on the committee's determination as to the future of each agency under sunset review. The report is to be accompanied by draft legislation to implement the standing committee's recommendations.
4. During November - If legislation has not been enacted to reestablish an agency scheduled for termination, a resolution shall be placed before the House and Senate to determine the agency's continued existence. If a majority of the members of each House approve of its continuation, the agency will continue to exist and shall undergo another sunset review ten years hence.
5. On December 31 - Any agency scheduled for termination that has not been specifically reestablished or continued by the General Assembly shall be terminated. Each such agency shall have until June 30 of the succeeding year to wind up its affairs.

E. LB&FC Sunset Performance Audit Timetable for this Commission

The LB&FC began the performance audit for the Pennsylvania State Athletic Commission in September of 1986 with the distribution of a pre-audit survey questionnaire to the Department of State. The preliminary survey phase of the LB&FC's performance audit commenced in early November 1986. This phase was conducted on the basis of a preliminary survey work plan which had been prepared by the LB&FC staff in early November. The detailed audit, also guided by a prepared work plan, started in early December 1986 and ended in mid-January 1987. It was during this phase that most of the field work was accomplished. After the sunset performance audit report underwent a period of review by the LB&FC staff (conducted during late January), the report was sent to the Commission for its review in early February 1987.

F. The Report Structure

The PERFORMANCE AUDIT FINDINGS AND RECOMMENDATIONS section of the report, the primary end product of the performance audit, is presented immediately following this INTRODUCTION. A section providing BACKGROUND DESCRIPTIVE INFORMATION ABOUT THE STATE ATHLETIC COMMISSION is presented thereafter. The report also includes a section on the DEFINITION OF THE AUDIT PROCESS AND METHODOLOGY.

G. Acknowledgements

The audit staff expresses appreciation to the members of the Pennsylvania State Athletic Commission, Honorable James J. Binns, Chairman, Honorable Richard R. Baer, and Honorable Charles P. Bednarik, for the outstanding cooperation they provided during this audit. Appreciation is also extended to Honorable James J. Haggerty for the personal interest and attention he has devoted to this audit since assuming the post of Acting Secretary of the Commonwealth. LB&FC staff would also like to thank the Commission's Executive Secretary/staff and the many Commission licensees who provided assistance to the auditors during this audit project.

The LB&FC staff involved in the sunset performance audit for this agency was under the direction of the LB&FC Executive Director, Richard Dario. John Rowe, Chief Analyst, was the Sunset Project Director, and the Senior Auditor was Philip Durgin. J. Brett Taylor, Analyst, worked on this audit on a full-time basis and was assisted by Analysts Kathy Ewig Failor and Barbara Hartman. LB&FC staff attorney Leslie Bichner also assisted in the audit effort. Secretarial support was provided by Donna Nell, Shannon Opperman and Krista Williard, with additional staff assistance from Earl T. Robson. Many of the above named personnel were simultaneously involved in other audit projects in addition to this audit.

Any questions or comments regarding the report should be directed to Richard D. Dario, Executive Director, Legislative Budget and Finance Committee, Room 400, Finance Building, Harrisburg, Pennsylvania, 17120.

IMPORTANT NOTE REGARDING RESPONSIBILITY
FOR FINDINGS AND RECOMMENDATIONS OF THIS REPORT

The release of this report should not be construed as an indication that Members of the Legislative Budget and Finance Committee support the contents of the report. The report was prepared according to United States General Accounting Office standards by Legislative Budget and Finance Committee audit staff and is being released by the Legislative Budget and Finance Committee without endorsement and as mandated by Act 1981-142, 71 P.S. §1795.1 et seq.

II. PERFORMANCE AUDIT FINDINGS AND RECOMMENDATIONS

This section presents findings resulting from the sunset performance audit of the Pennsylvania State Athletic Commission. The Commission was examined in an evaluative sense in conjunction with the specified criteria of Act 1981-142, 71 P.S. §1795.1 et seq., using U.S. General Accounting Office performance auditing standards. This audit included activities such as reviewing the enabling legislation and related laws and regulations; sampling of Commission administrative files; analysis of Commission member questionnaires; conduct of interviews with Commission members and the staff serving the Commission; and an analysis of questionnaires sent to deputy commissioners and licensees of the Commission. Information was also obtained from other states and various state and national associations with an interest in professional and amateur boxing and wrestling. Please see Part IV for a more complete discussion of the specific methodology used in auditing this Commission.

The findings are divided into twelve subject areas. Information presented within a subject area is not intended to be all inclusive of the subject area.

Not all information in regard to matters Committee staff investigated is included as a formal finding in subsections A through L of this report. Only those items are included that are supported by information obtained and verified by the auditors and in which the elements of a finding have been addressed. In general, each finding will include the following elements: (1) condition (the problem), (2) criteria (measurement standard), (3) cause (underlying reason why condition occurred), (4) effect (what resulted), and, if appropriate, (5) recommendation (possible corrective action).

A. RELATIONSHIP TO PUBLIC HEALTH, SAFETY AND WELFARE

FINDING: The primary function of the State Athletic Commission, as identified by the auditors, is to protect the health and safety of participants in professional and amateur boxing and wrestling events held in Pennsylvania. The Commission also serves to protect the economic interests of particularly professional boxers and to protect the safety and welfare of persons who attend professional wrestling and professional boxing events. Deaths and serious injury have occurred in Pennsylvania in both professional and amateur boxing, and the American Medical Association has called for the banning of both professional and amateur boxing. If professional and amateur boxing is permitted to continue in Pennsylvania, continued state regulation is warranted due to the inherent health and safety risks of these sports. Health and safety risks are less obvious in professional wrestling. No true contest exists in professional wrestling, and what may appear to spectators to be serious injuries are often illusionary parts of the "show." While professional wrestling involves a high degree of pretense, without some level of state regulation the danger exists that promoters and wrestlers, in their zeal to attract an audience, will resort to actions which might place both wrestlers and fans in peril. Self-mutilation, violence between fans and wrestlers, unruly crowd disturbances, and "no-show" events with promoters absconding with ticket sales are some of the possible consequences of total deregulation of professional wrestling. Although nonscholastic amateur wrestling falls under the Commission's jurisdiction, the Commission in reality has not been active in regulating this sport, and the auditors believe that continued regulatory authority over this area may be impractical.

RECOMMENDATIONS: To maintain proper checks and balances between the Commission's judicial, legislative and executive functions, the auditors concluded that the State Athletic Commission should be preserved. It is recommended, however, that the name of the Commission be changed from the State Athletic Commission to the Pennsylvania Commission on Boxing and Wrestling to remove any confusion which might exist over the Commission's jurisdiction. (Please also see Finding G regarding the need for changes in the regulatory environment of professional wrestling and amateur boxing and wrestling.)

Three of the evaluation criteria used in the Pennsylvania sunset audit process are "whether termination would significantly harm or endanger the public health, safety or welfare," "whether there is overlap or duplication of effort by other agencies that permit the termination of the agency," and "whether there is a demonstrated need, based on service to the public, for the continuing existence of the agency." These criteria were utilized in evaluating the functions of the State Athletic Commission.

Under the Pennsylvania Athletic Code, Act 1955-131, 4 P.S. §30.101 et seq., the Commission has "sole direction, control and jurisdiction over all amateur and professional boxing and wrestling contests and exhibitions held within the Commonwealth of Pennsylvania ...," and these events may only be held in accordance with the provisions of the Athletic Code and the rules and regulations promulgated by the Commission. In 1983, a definition of boxing was added to the Athletic Code. This definition includes all variations of the sport, and the Commission's jurisdiction was specifically expanded to include kick boxing. Excluded, however, from the Commission's jurisdiction are boxing and wrestling contests or exhibitions conducted or sponsored by any university, college, or secondary school, provided all the participants are enrolled students in these institutions.

Professional Boxing

By its nature, professional boxing is a dangerous sport. While deaths and serious injury due to boxing may not be commonplace in Pennsylvania, such incidents have occurred. The auditors learned of the following incidences of death and serious injury which have occurred over the past ten years to professional boxers in Pennsylvania:

- In March 1978 a professional boxer lost his bout on a technical knockout, returned to the dressing room under his own power, and then lapsed into a coma. While it was never conclusively determined whether this boxer died from injuries suffered in the ring (apparently the boxer had a viral condition 10 to 12 days prior to the bout), the Athletic Commission's report on this incident noted that during the third round the victorious boxer "... was scoring very heavily to the body and head." The bout was stopped midway into the fourth round.
- In June 1985 a professional boxer died from a subdural hemorrhage suffered during a sparring match in a Philadelphia gym while preparing for a professional bout.
- In January 1987, during the course of this sunset performance audit, a professional boxer at a Philadelphia arena lost a 4-round bout described in local newspapers as "competitive." Shortly after the bout, this boxer lapsed into a coma and underwent brain surgery. As of early February 1987, the boxer remained in intensive care in a Philadelphia hospital.

Professional boxing is very dangerous because the best way to succeed in this sport is to injure, incapacitate, or, even better, render your opponent unconscious by a knockout. The scoring rules favor the aggressive boxer, and points are awarded for knockdowns. Professional boxing differs from other sports such as football in that the intent of boxing is to injure your opponent; with other sports, injuries are a by-product, and rules are established to prevent or minimize them.

The official position of the American Medical Association (AMA) is to encourage the elimination of both amateur and professional boxing, to work with state legislatures to enact laws to eliminate boxing and to educate the public on the dangerous effects of boxing on the health of boxing participants. The AMA's Advisory Panel on Brain Injury in Boxing, which was appointed by the AMA's Council on Scientific Affairs, reached the following conclusion:

Boxing is a dangerous sport and can result in death or long-term brain injury. However, other sports may also result in accidental death or brain injury for participants.

Amateur boxing is fairly well supervised in this country through several national organizations. Professional boxing is less well controlled since the supervision of the sport is carried out worldwide through numerous uncoordinated national, state, and local boxing commissions. Therefore, it is difficult to determine the medical chronology of injuries in boxers.

No reliable test exists to identify boxers at risk for sudden death or impending brain injury. To reduce this risk, central administrative regulations and strict medical supervision should be required for the sport of boxing.

As a result of the study, the Council on Scientific Affairs made numerous recommendations, including establishing a National Registry of Boxers and urging boxing commissions to upgrade, standardize and strictly enforce medical examinations.

The Advisory Panel's report was released in a January 1983 issue of the Journal of the American Medical Association. This same issue, however, contained an editorial which called for the banning of boxing. The editorial referred to the Advisory Panel's study as "solid, balanced and reasonable" but noted that two new studies had found evidence of chronic brain damage in many boxers. An editorial in the May 9, 1986, issue of JAMA, again repeated the AMA's call for a ban on professional and amateur boxing based on new scientific data and clinical experience. While recognizing the dangers of other sports such as football, the editorial stated, "it is the high frequency of chronic brain damage (60% to 87%) among boxers who have had many fights that sets boxing apart medically."

The May 1986 editorial also quotes the final report of the State of New Jersey Commission of Investigation of December 16, 1985, entitled "Organized Crime in Boxing" which concluded that boxing should be abolished, that "the inherent problems of professional boxing - and most particularly its constant threat of bodily destruction, mentally and physically - cannot be effectively resolved at any governmental level," that the sport is "marred by official misconduct, promotional greed and matchmaking barbarism," and that "not even the sturdiest of statutory controls will reduce the brutality of the sport to any significant degree." In response to this report,

The New York Times called on New Jersey to become the first state in the United States to outlaw boxing.

Although professional boxing has been banned in Norway and Sweden, it has not yet been banned in any state in the United States. In a report prepared by the Congressional Research Service, it is noted that professional boxing is regulated, licensed or both by state or city governments in 46 states and the District of Columbia. Four states reportedly have no state or local government regulations. Pennsylvania held 40 professional boxing shows in 1985, which ranks 7th in the nation behind New Jersey (152, 147 of which were in Atlantic City), California (135), Texas (84), Florida (58), Nevada (45) and New York (41).

If the General Assembly determines that professional boxing, and its variants such as kick boxing, should continue to be allowed in Pennsylvania, it appears clear that state regulation is necessary to protect the health, safety and welfare of the participants. There are numerous provisions in the Pennsylvania Athletic Code and the regulations of the State Athletic Commission (SAC) designed to protect the physical safety of professional boxers. Each boxer is to be examined by a physician appointed by the Commission before being allowed to enter the ring; the Commission is to supervise the bandaging of a boxer's hands and the adjusting of his gloves; a physician is to be stationed at ringside during the bout; and dangerous practices such as hitting below the belt, hitting on the back of the neck and thumbing the eyes of the opponent are prohibited.

A professional boxer is automatically suspended for sixty days if he has been knocked out; if a technical knockout, the boxer is given a 30-day suspension. No suspended boxer is to be permitted to box after a suspension until satisfactory evidence is furnished of his physical well-being. The Commission may suspend a professional boxer who is defeated in five consecutive contests, pending Commission determination of his physical and mental ability to safely continue to box. Additionally, the Pennsylvania Athletic Code requires all boxers receiving a knockout to receive an EEG within 24 hours of the knockout and all boxers are to be examined by a physician within five days of the contest in which he was a participant. (However, please see Finding H regarding enforcement of these provisions.) The Commission has promulgated additional safety requirements for professional boxers in its rules and regulations, and has approved draft regulations specifically designed to protect participants in kick boxing contests. (Please see Finding E regarding the status of the Commission's kick boxing regulations.)

In addition to protecting the boxer's physical safety, the Athletic Code and the Commission's regulations also include provisions to protect the boxer's economic welfare. For example, each contract between a boxer and manager is subject to Commission approval, and an executed copy of the contract is to be filed with the Commission. A manager is prohibited from contractually binding a boxer to perform services after termination of the

manager-boxer relationship and from entering into a contract that does not guarantee a boxer at least \$750 annual income.

The Commission's Executive Secretary told the auditors that some boxers begin their career at a young age in gyms in economically poor neighborhoods. The potential exists, he said, for older individuals more experienced in boxing to manage a boxer's career and to take undue advantage of the boxer's naivete and his minimal educational background. He said he knew a circumstance in which a boxer was to be paid \$250 for a 6-round fight only if enough tickets were sold, otherwise the boxer would not get paid. A Congressional aide who has worked on a bill to create a national corporation to oversee professional boxing and to establish health and safety standards told the auditors that many boxers do not understand business or contractual arrangements, that they rely on others for assistance, and that there is a potential in the boxing industry for corruption and for boxers to receive advice on illegal activities.

Aside from the need to protect participants, the Commission informed the auditors that, were all laws and rules concerning professional boxing abolished, fraudulent activity would likely arise, creating a threat to consumer interests. Specifically, the outcome of boxing contests could be predetermined without public knowledge, or promotions might not occur after tickets have been sold. Because the Commission assigns referees and judges to events, predetermined outcomes, while still possible, would appear less likely. Further, all professional boxing promoters are required to file a surety bond or other approved security with the Commission conditioned on faithful performance by the promoter of his obligations under the Code.

Amateur Boxing

Under the Pennsylvania Athletic Code and SAC regulations, the SAC has jurisdiction over amateur boxing contests held in Pennsylvania. Each amateur boxing event under the jurisdiction of the Commission must have a bona fide nonprofit organization or sponsor. SAC regulations provide that the Commission may collaborate with the Amateur Athletic Union (AAU) in the conduct of amateur boxing events, and that AAU rules and regulations relating to weight classes, ring and ring equipment, conduct of bouts and scoring shall be in effect. If a controversy arises in connection with any subject which is not covered by the express provisions of the SAC's regulations, the Commission reserves the right to make a final decision on the matter.

Health and Safety of Amateur Boxers. The AMA has called for the elimination of both amateur and professional boxing. In support of this position, the AMA notes "...blows to the head damage the brain, whether or not the assailant and the recipient are paid." In 1981, an amateur boxer died following brain surgery for injuries suffered during Golden Gloves elimination bouts held in Easton, PA. An AMA editorial in May 1986 cited the case of a young amateur boxer in West Virginia who died of brain damage shortly after his third bout. A law suit was filed in this case and was settled in favor of the boy's parents after a jury trial in 1986. The AMA editorial

indicated that it may be possible to make amateur boxing safe by ritualizing the sport, much as fencing has ritualized sword fighting, and eliminating blows to the head. It would appear, therefore, that if the General Assembly decides to allow amateur boxing as it is now known to continue in the Commonwealth, some degree of state regulation to protect the health and safety of the boxers is warranted.

According to a survey conducted by the United States of America Amateur Boxing Federation (USA/ABF), ten states (including Pennsylvania) regulate amateur boxing directly, 13 assign regulation to the USA/ABF and 26 states do not regulate the sport (one state failed to respond to the questionnaire). Among those states which assign regulation to the USA/ABF are California, Maryland, Nevada, New York, Virginia and Delaware. New Jersey responded that it has limited regulation over amateur boxing (e.g., a Commission inspector is to attend each amateur boxing show to collect the state tax, and the inspector is not permitted to allow an amateur boxing show to proceed without a doctor in attendance and an ambulance available).

The United States Olympic Committee is required by Federal law to recognize only one organization as the national governing body for each amateur sport; the USA/ABF is the national governing body for the regulation of amateur boxing in the United States. The Commonwealth of Pennsylvania is divided into two regions by the USA/ABF, each of which is governed by a USA/ABF Local Boxing Committee (LBC) which is to sanction amateur boxing events within its jurisdiction. According to the USA/ABF officials with whom the auditors spoke, all amateur bouts in Pennsylvania (except amateur bouts between prison inmates) are sanctioned by the USA/ABF, including, for example, the Golden Gloves program.

Presidents of each LBC in Pennsylvania informed the auditors that USA/ABF regulations are more protective of boxers than are SAC regulations. For example, the USA/ABF rules mandate the wearing of competitive headgear, whereas the SAC does not require headgear in its promulgated regulations. (The Chairman of the Athletic Commission informed the auditors, however, that the Commission has established a policy to require headgear in amateur bouts.) Another USA/ABF rule requires that a boxer who has been stopped in a bout due to head blows shall be immediately examined by a physician, accompanied to his home or suitable accommodations by an official, who shall give a Restrictions affidavit to a responsible adult at the home and explain the affidavit to the adult. The affidavit requires a physician to complete a medical release form after the restriction period and prior to returning to boxing or sparring. SAC rules simply require a medical examination after a boxer has received a concussion, been suspended and wants to return to boxing. USA/ABF regulations also require that referees assess a standing eight count whenever a boxer is dazed by a blow, whether or not he is knocked down. The auditors were also informed that USA/ABF referees are certified and tested for competency annually.

Welfare of Amateur Boxers. One reason for state regulation of professional boxers is that the boxer may not have the education or experience in

financial matters to adequately protect his financial interest in dealings with managers and promoters. For this reason, contracts between professional boxers and managers or promoters are to be approved by the State Athletic Commission. By definition, however, amateur boxers may not receive any purse or other article of value in excess of \$50.

The State Athletic Commission requires that participants in amateur bouts have insurance coverage up to \$10,000. All USA/ABF members, however, receive \$1,000 in sports accident coverage for boxing injuries, and all USA/ABF sanctioned events must obtain excess coverage up to \$10,000 to cover excess medical bills of athletes above the sports accident insurance. Because the USA/ABF requires greater insurance coverage than that required by the Athletic Commission, USA/ABF sanctioned events have been exempted from paying insurance premiums to the Athletic Commission.

Professional Wrestling

The SAC has the responsibility to regulate all professional wrestling contests and exhibitions in Pennsylvania. (A wrestling contest is defined as an engagement in which the wrestlers strive in good faith to win. A wrestling exhibition means an engagement in which the participants show or display their skills without necessarily striving to win.) According to the Pennsylvania Athletic Code, the SAC is to promulgate rules and regulations for professional wrestling contests and exhibitions to protect the best interests of the participants and of the public and to "...insure fair, sportsmanlike, scientific and genuine wrestling contests."

As discussed in Finding G of this report, the auditors attended various professional wrestling exhibitions (the Athletic Commission's Executive Secretary indicated he knew of no professional wrestling contests having been held in Pennsylvania in recent years) to determine if these regulations are enforced and to assess the impact of deregulating professional wrestling. LB&FC staff found an odd situation with respect to professional wrestling in Pennsylvania. On the one hand, both the Athletic Code and the Athletic Commission regulations are written with what appears to be a presumption that professional wrestling matches are true contests between valid opponents. In many ways, the sport is viewed as comparable to professional boxing.

However, professional wrestling as currently presented to the public in commercial promotions is not a genuine competitive sport; conduct in the ring is obviously lacking in sportsmanship, and there is evidence to suggest that the match outcomes are predetermined. While professional wrestling may involve the illusion of a true contest between opponents seeking to subdue or injure one another, the shows are largely pretense for the purpose of audience entertainment. Neither the Commission's Executive Secretary nor a major wrestling promoter with whom the auditors spoke knew of any deaths or serious injuries having occurred during a professional wrestling match. (During the course of the audit, the auditors attended a professional wrestling event in which a wrestler was thrown on his back

and, after examination by the ringside physician, was carried out of the ring on a stretcher in obvious pain. The auditors observed the physician examining the wrestler in the dressing area for possible back injuries. The physician later informed the auditors that this injury, while real, was not serious.)

Although no athletic contest is involved in a professional wrestling event, continued state regulation of professional wrestling appears necessary to protect the safety and welfare of both participants and members of the audience. Without state regulatory involvement, there would be few controls to prevent promoters or wrestlers from becoming overzealous in their pursuit to obtain an audience for their shows. For example, the auditors were informed of and have seen evidence of abuses perpetrated by professional wrestlers, including the drawing of blood by self-inflicted wounds (specifically, cutting one's forehead with a razor blade). Some fans at professional wrestling events attended by the auditors chanted phrases such as "We want blood," so without controls promoters and wrestlers might be tempted to satisfy this segment of the audience.

Through discussions with professional wrestling promoters, the auditors found that unlike sports such as baseball, football or basketball, there is no league in professional wrestling. Professional wrestling shows are actually like traveling shows, with each wrestler and "manager" under contract with the particular promoter holding the event. Because there is no league to establish or enforce safety rules and codes of conduct and because wrestlers appear to not generally participate in unions, private sector controls and protections which may exist for other professional athletes do not appear to exist for professional wrestlers.

In addition to the need to curb the possibility of abuses by intemperate promoters or wrestlers, both the Commission's Chairman and the Executive Secretary informed the auditors that state regulation is necessary to ensure the audience does not engage in destructive behavior which might be injurious to participants. The auditors observed at an event they attended that debris was thrown into the ring and ring area and were informed by a person at ringside who travels with the wrestlers that it is common for the crowd to throw debris. Concern was also expressed over the need to ensure adequate security guards are present to protect the wrestlers and to control possible crowd disturbances.

Continued state regulation of professional wrestling events would also appear to be in the public interest to deter promoters from deceptive advertising and to prevent promoters from selling tickets to events which never occur and absconding with the proceeds. Because promoters are required to be bonded, there is at least a degree of redress available to citizens and wrestlers who may be victimized by unscrupulous promoters.

In 1985-86, the professional wrestling industry contributed about \$241,000 in revenue from the 5% additional license fee on gross receipts, represent-

ing over 80 percent of the total revenues collected by the Athletic Commission during 1985-86.

Amateur Wrestling

Although the Athletic Commission has authority to regulate nonscholastic amateur wrestling in Pennsylvania, the Commission's Executive Secretary informed the auditors that it had virtually no involvement in the sport until 1983, and since 1983 the Commission has attended a few events primarily for the purpose of collecting revenues. As described in Finding G of this report, many of the existing provisions of the Pennsylvania Athletic Code and the Commission's regulations are incompatible with amateur wrestling as it is conducted in Pennsylvania.

The U.S. Olympic Committee has recognized the United States of America Wrestling Association as the national governing body for amateur wrestling. The Association requires referees; judges; and a mat chairman, who is to cast the deciding vote in a tie, to be assigned to each mat at a wrestling match. The Association informed the auditors that they provide training clinics for these officials before they assume their duties in each tournament, and that all referees are tested and certified. The Association also requires a medical officer to be present at all events. For all events sanctioned by the USA Wrestling Association, the Association is to issue health, accident and liability insurance for \$100,000 to contestants.

The Amateur Athletic Union also sanctions amateur wrestling matches and tournaments in Pennsylvania, and certifies its referees based on experience and a written rules test. The auditors also spoke to officials of the Keystone State Games, which holds amateur wrestling tournaments five times a year. The officials contacted indicated that they have insurance to cover their members, and that they use PIAA and NCAA certified referees.

The USA Wrestling Association's Director of State Services, informed the auditors that he is aware of no state that is actively involved in the regulation of amateur wrestling. Specifically, he indicated he is aware of no state, Pennsylvania included, which assigns officials to events, requires tournament directors to follow rules promulgated by the state, or issues licenses to those involved in amateur wrestling.

The auditors discussed the potential health and safety risks of amateur wrestling with the USA Wrestling Association Director of State Services, two officials from the A.A.U., and an official of the Keystone State Games and were informed of one death and three serious injuries which have occurred nationally in nonscholastic amateur wrestling. These incidences, none of which occurred in Pennsylvania, involved a wrestler who died of respiratory failure after a national championship bout, a boy who was paralyzed after he and an older boy were engaged in horseplay in street clothes while the coach was in the dressing room with another wrestler, another case in which a wrestler was paralyzed in Oklahoma, and a fourth case in

which a wrestler who was advised not to wrestle by a physician because of an injury to his neck incurred a broken neck while wrestling in a Delaware State Championship tournament.

Recent studies of intercollegiate wrestling show that compared to other sports, wrestling has a significantly higher injury rate, often second only to football. In one study of childhood injuries, football and wrestling were found to have the highest injury rate, with injuries generally being more severe for wrestling. This study also found, however, that the rate of injury in organized sports activities for preadolescents appears to be much lower than their high-school counterparts.

The Commission's Executive Secretary indicated that the sponsors of amateur wrestling events are very organized and, he believes, are capable of insuring the physical safety of the contestants. The Executive Secretary reported that at the amateur wrestling events he has attended there have been members of the sponsoring organization in attendance as well as parents of the participants. The auditors also discussed amateur wrestling with the members of the Athletic Commission and found them to be in general agreement that continued state regulation of the sport was unnecessary.

Need for a Commission

In addition to the analysis presented above, LB&FC staff distributed sunset performance audit questionnaires to employees and licensees of the Commission to determine their opinions regarding the continued need for the State Athletic Commission. While many of the comments received suggest changes which the respondents believe are needed (see for example Exhibits A, B, and C), the vast majority of respondents to these questionnaires indicated that they believe the State Athletic Commission is generally doing a "good job" in its areas of responsibility. Most respondents also said that the representatives of the Commission with whom they have contact are courteous and reasonable.

Although the functions of the State Athletic Commission could possibly be carried out by an administrative entity within the Department of State, the auditors believe a continued need exists for a Commission which can maintain a degree of independence from the Department. Because the Commission has both a quasi-judicial function (e.g., the Commission is empowered to suspend and revoke licenses) and a quasi-legislative function (e.g., establishing policy and promulgating regulations), the need exists to establish the administrative functions of the Commission (i.e., the power to enforce rules and regulations) within a body which is separate and distinct from the Commission, in this case the Department of State. If all three of these powers (i.e., judicial, legislative and executive) were under the control of one individual within either the Department of State or the Commission, few checks and balances would exist to deter possible abuse of power.

In reviewing the Commission's functions and responsibilities, the auditors noted that although the Commission is entitled the "State Athletic Commission," the only athletic events under the Commission's jurisdiction are boxing and wrestling. While there is no uniformity of names for similar commissions in other states, many states have adopted more precise terminology such as "Boxing Commission" or "Boxing and Wrestling Commission."

B. PUBLIC INPUT AND PARTICIPATION

FINDING: The Athletic Commission has promulgated only two regulations since January 1981, and public comments were received on neither of them. The Commission, however, has adopted other policies and rules outside the regulatory process, thus not affording the public or members of the General Assembly the opportunity to comment as provided for under Commonwealth documents law and the Regulatory Review Act. Public notice could not be found for one of the Commission's three recent public meetings, and the Commission has not published a yearly schedule of meetings as required by the Sunshine Act. The Commission also does not have a specifically designated public member. RECOMMENDATIONS: It is recommended that the Commission review its policies and rules with the legal staff of the Department of State and, where necessary, promulgate pertinent Commission rules through the regulatory process. The Commission should also publish a yearly schedule of its regular meetings. The auditors further recommend that the General Assembly amend the Commission's enabling legislation to provide for at least one specifically designated public member.

One of the evaluation criteria to be addressed in the sunset performance audit process is "whether the agency has encouraged public participation in the making of its rules and decisions or whether the agency has permitted participation solely by the persons it regulates." To address this criterion, the auditors attempted to determine what formal and informal mechanisms exist through which public input can be made into the decisions of the State Athletic Commission.

Regulations

One mechanism by which public input into the operations and decisions of state agencies can be obtained is through the opportunity for interested persons to comment on proposed rules and regulations. The statutory provisions regarding the promulgation and adoption of agency rules and regulations requires a public comment period of no less than thirty days between the time regulations are proposed and the time the regulations become effective. The auditors reviewed the Pennsylvania Bulletin from 1981 to the present and found that the Commission has promulgated only two regulations during this time. These regulations, both of which were adopted on April 24, 1982, limited to one the number of matches in which an amateur boxer may participate in a single day and outlined the qualifications for licensing of amateur boxing referees. The notice of proposed rule-making was published on August 15, 1981, along with an invitation for interested parties to submit written comments. The Commission reported that no written comments were received, and the regulations were adopted as proposed.

In addition to these two officially promulgated regulations, the auditors found that the Commission has established other "rules," including requiring headgear and thumbless gloves during amateur bouts, drug testing for State Championship bouts, and the "retina rule" requiring that boxers having suffered a detached retina are to be permanently retired from the sport

whether or not the injury is repaired. As discussed in Finding E of this report, these policies have been instituted outside the regulatory process, thus not affording the public and the General Assembly opportunity for input into these rules as provided for under Commonwealth documents law and the Regulatory Review Act.

Commission Meetings

The auditors requested documentation of public notice for three Commission meetings held during the last half of 1986. Such documentation was provided for two of the three Commission meetings but the auditors were informed that documentation of public notice for the third meeting could not be located. Section 265(b) of the "Sunshine Law" requires that agencies publish a yearly schedule of meetings at least once per calendar or fiscal year. However, the auditors were informed that the State Athletic Commission does not schedule its meetings a year in advance and therefore has not published such a yearly schedule.

In addition to public notice of the their meetings, the Executive Secretary informed the auditors that the Commission permits members of the public to express their comments at Commission meetings. While there are no written procedures, the Executive Secretary indicated that any member of the public wishing to address the Commission is welcome to do so by contacting the Executive Secretary and requesting to be placed on the agenda.

Board Membership

The State Athletic Commission membership requirements do not provide for public members to serve on the Commission. A number of Pennsylvania boards and commissions have specific provisions for public members, and the Pennsylvania General Assembly has shown its support of public representation on state licensing boards by the enactment of Act 1978-292. In this Act, public members were added to many of the professional licensure boards within the Department of State's Bureau of Professional and Occupational Affairs. As a result of Sunset review the General Assembly has added specifically designated public members to several other Commonwealth boards and commissions. The presence of one or more public member(s) on the State Athletic Commission would provide a designated mechanism for consumer input into the decision-making processes of the Commission.

C. FAILURE OF THE DEPARTMENT OF STATE TO FULLY SUPPORT COMMISSION OPERATIONS

FINDING: Despite revenues generated by the Athletic Commission having exceeded Commission expenses by over \$100,000 in FY 1985-86, the Department of State has failed to provide needed support services to the Commission. The lack of adequate clerical support, ineffective efforts in establishing a Medical Advisory Board, permitting a long-term ineffective relationship to exist between the Commission's Executive Secretary and Chairman, poor oversight over Commission staff and administrative operations, and the lack of computer services are examples found by the auditors of the Department's failure to support Commission operations. LB&FC staff recommendations are presented below.

RECOMMENDATIONS:

1. The Department of State should examine the staffing needs of each of the Commission's four offices. These needs should be assessed with consideration toward the possible implementation of a computer system which might require extended use of a computer keyboard and the possible implementation of improved activity in such areas as licensing, safety and gym inspections (as called for in other parts of this audit report). In addition, the Department should take steps to prevent future delays in securing and assigning needed clerical personnel to the Commission's various offices.
2. The Department of State should take the lead, along with appropriate officials representing the Governor, in re-establishing the Commission's Medical Advisory Board. (See also Recommendation H.1.)
3. The Department of State, in conjunction with the members of the Athletic Commission and its staff, should carefully consider the Commission's current and future needs for a computer system. This assessment should include consideration of the Commission's regional offices' need to have access to and modify Commission licensee records. Consideration should also be given to potential benefits of automating other operations of the Commission such as assignments and pay records for deputy commissioners and other officials.
4. The Department of State should take necessary action to establish the proper job classification for the Commission's Executive Secretary, with salary compensation commensurate with the position's responsibilities.
5. The Department of State should take steps to provide adequate supervision and oversight over the Commission's staff and its administrative operations and to establish a working relationship between the Commission's Chairman and the Executive Secretary. (See also Findings E, F, I and K.)

DISCUSSION:

Although the Department of State has administrative responsibility over the Commission operations, LB&FC staff found the following examples of the Department's failure to provide adequate administrative support:

- Commission revenues exceed Commission expenses, yet needed services not provided. During every year since FY 82-83, the State Athletic Commission has collected more in fee revenues than it has expended on Commission operations. In FY 1985-86, the Commission received \$296,608 in revenues but only spent \$195,135, a surplus of \$101,473. The fee revenues collected, however, are not specifically designated for use by the Athletic Commission. Rather, the revenues are treated as augmentations to the Department of State's General Government Operations appropriation from the General Fund. As such, the Department of State may use the revenues generated by the Commission for any purposes for which the General Government Operations appropriation could be used, without need for an additional appropriation from the General Assembly. Because the Department of State lapsed only \$13,840 at the end of FY 1985-86, it would appear that much of the revenue collected by the Athletic Commission was used to support other activities of the Department of State, such as the operations of the Corporation Bureau and the Commission on Charitable Organizations. Despite the large excess of revenues over expenditures, the auditors found substantial evidence that the Department of State has not provided needed support services to the Commission.

- Failure to provide adequate secretarial support services. Due to a severe and recurring medical illness, the secretary in the Commission's Philadelphia office has been absent from work for extended periods of time. LB&FC staff reviewed correspondence written by the Commission's Chairman in July 1986 informing the Department of State that the secretary would be absent for an extended period of time and requesting that the Department send a list of applicants for a temporary position. The Philadelphia office was without a clerical staff person from June 27, 1986 until September 11, 1986, at which time the Commission's Chairman took the initiative to appoint a person to this position. On October 9, 1986, the Chairman wrote the Department's Personnel Director indicating that he had been repeatedly advised that a secretary would be coming, that none had materialized, and that he had been hiring part-time secretaries at his own expense. The secretary who had been ill then returned, and stayed with the Commission for approximately two months, until mid-December 1986. During the period mid-December through late January, the Philadelphia office was staffed by another individual appointed by the Commission's Chairman. The auditors were informed that although this individual began work on December 19, 1986, as of the end of January 1987 she had not yet been paid by the Department of State.

During the period June 27 through September 5, the Philadelphia office was staffed by the Commission's Executive Secretary who, as explained above, had no clerical support. The Executive Secretary's office was then moved

to Harrisburg. During the period September 8, 1986 through January 21, 1987, the Executive Secretary functioned without a secretary, although the Department of State informed the auditors that secretarial help was available through the Department's Executive Office. A secretary was provided to the Executive Secretary beginning January 22, 1987. The auditors were also informed that the individual with clerical responsibilities in the Pittsburgh regional office, although conscientious, does not have a strong secretarial background and is not classified in a typist position.

- Ineffective efforts to establish the Medical Advisory Board. Section 401 of the Pennsylvania Athletic Code creates a nine-member Medical Advisory Board, the members of which are to be appointed by the Governor. This Board does not appear to have met since 1981. The Chairman of the State Athletic Commission provided to LB&FC staff copies of letters written in 1984 and 1985 indicating a total of eight physicians for nomination to serve on this Board. However, as of mid-January 1987, none of these physicians had been appointed to the Board. In a November 11, 1986, letter written to the other Commissioners, the Chairman of the Commission stated:

We are now nearing the end of 1986 and we still have not heard a word with respect to the appointment of a Medical Advisory Board. I think we have a moral obligation to call a halt to professional boxing in the Commonwealth of Pennsylvania until a Board is duly constituted.

LB&FC staff also reviewed memorandums written by Department of State officials to officials in the Governor's Office requesting action be taken with regard to appointments to the Medical Advisory Board; it was not clear, however, whether or not the Governor's Office ever responded to these requests.

When asked why action had not been taken to re-establish the Medical Advisory Board, the auditors were informed by the Department of State that the Athletic Code requires that the Medical Advisory Board members be appointed "from a full list of members in good standing...which list shall be furnished to the Governor by the president and secretary of the respective societies annually". According to the Department, in the past such lists were not furnished by the societies (i.e., the Pennsylvania Medical Society and the Pennsylvania Osteopathic Medical Association). The Department indicated that they had recently contacted the societies and had received the required listings, and that the membership lists would be provided to the incoming administration for their review and consideration.

- Department of State administrative officials have permitted a long-term ineffective working relationship to exist between the Commission's Executive Secretary and the Commission's Chairman. During the course of the audit, the auditors reviewed letters and other documents written by the Commission's Chairman, by officials within the Department of State, and by the Commission's Executive Secretary attesting to an ineffective working relationship between, in particular, the Commission's Executive Secretary and the Commission's Chairman. According to these documents and interviews

with the principals, there has been virtually no communication between the Chairman and the Executive Secretary since approximately late 1983. Despite widespread knowledge of the disagreements between these two individuals, the Department of State has failed to take effective action to resolve these disagreements or to take other action necessary to create a working relationship between the Commission's Chairman and the Commission's Executive Secretary.

- Lack of effective administrative procedures. As a Commission within the Department of State, the Department is responsible for the administrative and fiscal operations of the Athletic Commission. As shown throughout this report (see in particular Findings F and K), the Department of State has failed to provide adequate oversight of the Commission's administrative and fiscal affairs. Incomplete After Contest Reports, incomplete license applications, unalphabetized listings of Commission licensees, licensees not receiving license cards, poor internal controls over cash collections, delays in payment of Commission employees and delays in depositing Commonwealth checks are but some of the examples of the Department's weak administrative oversight of Commission operations.

- Computer services not provided. The Pennsylvania Athletic Commission did not, as of January 1987, have access to a computer. The need for such a computer to maintain detailed information on boxers was discussed during testimony taken in September 1986 before the House Special Commission on Boxing, which was established to investigate issues of health and safety in boxing in Pennsylvania, and at various meetings of the Athletic Commission dating back to at least July 1984. The auditors were informed in January 1987 that the Department of State had acquired a personal computer for use by the Athletic Commission. This computer was acquired at no charge through a lease offer made by one of the Department's office equipment vendors. Due to hardware problems, however, this computer had not yet been operational as of January 1987. The auditors discussed the anticipated uses of this computer with Department officials and attempted to determine through discussions with both the Department and the office equipment vendor the capabilities of this computer. The auditors then spoke to the representative of a major computer company to obtain input and recommendations from that company.

Through these discussions, the auditors were informed that the personal computer acquired for the Commission could, with commercially available data base software, record licensure and medical information on all the Commission's various licensees. This information could then be updated and extracted in various formats. The auditors were also informed that with the purchase of a modem and communications software, the personal computer could view information from other computers, assuming these computers used industry standards for communications. However, the auditors identified other Commission activities which may be conducive to automation, including the assignment of deputy commissioners and officials, payroll and budgeting activities, electronic transfers of fee collections, automated auditing of fee collections against After Contest Reports and other license records, and the recording and tracking of complaints and disciplinary actions.

According to both vendors with whom the auditors spoke, the personal computer acquired by the Department may be adequate for any one or two of these activities. However, when all activities are combined, a minicomputer, as opposed^{1/} to a personal computer, would be necessary for efficient operations.

Moreover, the auditors were informed that a minicomputer would be the appropriate hardware choice if the Commission wished to have access to and update license and medical information from the various regional offices or show sites.

One major vendor indicated that his company would probably recommend a minicomputer (approx. \$19,700), two or three terminals, and two printers to be located in the Harrisburg office. To have access to and update this information, each regional office (i.e., Philadelphia, Scranton and Pittsburgh) would need a personal computer, printer and modem (total of approx. \$8,000 for each office). In addition to these hardware costs, the vendor estimated an additional \$5,000 to \$7,000 in software costs for the Harrisburg office and \$1,200 to \$2,000 in software costs for each regional office. Total cost for such a system would be approximately \$65,000 to \$70,000.

- Delay in updating Commission regulations. During a February 1982 meeting of the State Athletic Commission, the Chief Counsel for the Department of State reported that the Commission's rules and regulations were being reorganized so that all of the sections that pertain to the same subject would be under the same heading. At that time, the Chief Counsel indicated that there should be a printing of the new rules and regulations within the next few months. The reprinting of the Commission's rules and regulations was subsequently discussed at no fewer than ten other Commission meetings between February 1982 and Fall 1986, when the regulations were finally completed. In December 1982, the Department informed the Commission that the new rules and regulations were at the printers, and that they should be available within a month. Three thousand of these new regulations were printed, but in a May 1983 Commission meeting it was discovered that the new regulations did not have section reference numbers, and the Commission rejected them. In August 1983, the Chief Counsel reported that new galley

^{1/}The Department of State's Director of Administrative Services indicated the Department plans to use the personal computer it has obtained to develop a prototype computer capability for the Athletic Commission. In the future, the Department would like to see a computer system whereby each of the regional offices would be tied in through the Commonwealth Integrated Data Network to the Department's mainframe computer. As described by the Director, development of such a system involves sizable personnel and computer resources and will require some time. The Department indicated that the primary reason for electing the personal computer now is to quickly establish a prototype for this future system.

proofs had been examined and approved, and they were now at the printers. In February 1984, the Department informed the Commission that the new regulations would not be printed until regulations regarding kick boxing had been passed. In June 1985, the Department reported that the new regulations were on the final proof and should be printed in the next month. At a Commission meeting in September 1985, the Chief Counsel indicated that as of that date nothing had been done to facilitate the completion of the new regulations. In July 1986, the new regulations were presented to the Commission, but they could not be distributed because they were defective and many of the new rules and regulations had been omitted. By November 1986, the new regulations were available for public distribution. As a result of these delays, the Executive Secretary informed the auditors that the Commission operated since approximately 1983 without a supply of rules and regulations which could be distributed to the public. (The Commission has, however, been able to hand out the misprinted regulations to persons requesting copies.)

- Delay in proper classification of Executive Secretary. The Commission's Executive Secretary is an Administrative Officer I (AOI), pay range 37. According to job descriptions for an AOI, this individual may supervise staff engaged primarily in a single activity, with work and performance to be reviewed by a professional or administrative superior. The Executive Secretary position, as it now exists, is the administrative head of the Athletic Commission, and is to supervise Commission activities in a wide variety of areas, including budget preparation, preparation and conduct of training seminars, investigation of complaints, review of contracts between boxers and managers, and supervision of all administrative and clerical processes relating to Commission matters. Several years ago, a review of the Executive Secretary's classification was conducted by the Office of Administration. This review determined that the AOI classification was not appropriate for this position, and that a special classification should be developed. As of late January 1987, a draft of the specifications of this position had been completed, but had not yet been submitted for review to the Commission, the Secretary of the Commonwealth, or to the Office of Administration.

D. APPARENT CONFUSION REGARDING COMMISSION ROLES AND RESPONSIBILITIES

FINDING: Confusion exists over lines of authority and the proper roles and responsibilities of the Commission, the Department of State, individual Commissioners, the Executive Secretary and Commission staff. This confusion appears to be at least part of the reason for the Commission's poor administrative performance and for the strained relationship which exists between the Commission's Chairman and the Executive Secretary. LB&FC recommendations are presented below.

RECOMMENDATIONS:

1. The Department of State, in conjunction and cooperation with the State Athletic Commission, should develop clear policies regarding the proper roles and responsibilities of the Commission; the individual Commissioners; the Commission's staff, including deputy commissioners; and the Department of State. In particular, these policies should include unambiguous lines of authority, responsibility and accountability for the Commission's Executive Secretary. The policies should also address the types of policies, procedures, and decisions which may be made by individual Commissioners versus the types of policies, procedures and decisions which must be made by the full Commission.
2. In conjunction with efforts made to clarify Commission roles and responsibilities, the Department of State should review position job descriptions and Commission organizational charts for consistency of reporting relationships. During this review, the Department should examine the current pay schedules for the deputy commissioners to ensure that these individuals are receiving appropriate compensation commensurate with their duties and responsibilities (see Finding I). It is also recommended that the standing committee assigned sunset review responsibilities for the Athletic Commission examine the current annual salaries for Commission members^{1/} to determine the appropriateness of these salaries (see Section III).

^{1/}The auditors contacted officials at the New York State Athletic Commission and the New Jersey Athletic Control Board. New York has a full-time Commissioner who receives an annual salary of \$68,000, with the other two Commissioners receiving a per diem of \$110 for the meetings they attend (up to a maximum of \$5,000 per year). New York also has five full-time deputy commissioners. Inspectors for the New York Commission receive \$39 per event. New Jersey has a full-time Commissioner who receives an annual salary of \$60,000. The New Jersey Athletic Control Board is a three-member board whose members receive \$10,000 (plus expenses) annually. The New Jersey Board also has two full-time deputy commissioners who receive annual salaries of \$47,000 and a full-time chief inspector who receives \$35,000 annually. Part-time inspectors in New Jersey receive approximately \$7 per hour for an event, with events generally lasting about six hours.

3. It is recommended that the Commission have an influential voice in the Department of State's hiring decisions regarding the Executive Secretary and other administrative and support staff. While the Department need not be compelled to hire any specific individual recommended by the Commission, neither should the Department employ Commission staff which the Commission believes unacceptable from a qualifications or work-performance viewpoint. (See also Recommendation D.5.)

4. It is recommended that the General Assembly give consideration to amending the Administrative Code of 1929 to incorporate the State Athletic Commission into the Department of State's Bureau of Professional and Occupational Affairs, with the Commission's Executive Secretary reporting to the Commissioner of Professional and Occupational Affairs. (See also Finding L.)

5. The auditors recommend that the General Assembly amend Section 427 of the Administrative Code of 1929 to delete reference to the Secretary of Revenue and to grant the Commission consent authority over the hiring of its Executive Secretary. (See also Recommendation K.9.)

DISCUSSION:

There appears to be substantial confusion surrounding the respective roles and responsibilities of the State Athletic Commission, the individual Commissioners, the Executive Secretary and staff, and the Department of State. In particular:

- Section 427 of the Administrative Code of 1929 states "the commission may, with the approval of the Secretary of Revenue, appoint a secretary, who shall receive a salary to be fixed by the commission, with the approval of the Governor."^{2/} The Athletic Commission's regulations state, however, that the Executive Secretary "...shall be appointed by the Secretary of the Commonwealth to act as the administrative officer to the Athletic Commission, and act as the liaison between members of the Commission." The Commission's regulations also state "the Executive Secretary shall perform such duties as from time to time are requested by the Commission."

- The organizational chart provided to the auditors by the Department of State shows the Executive Secretary reporting directly to the Chairman of the Commission, yet the job description provided for the Executive Secretary by the Department of State says that the Executive Secretary reports directly to the Deputy Secretary of the Commonwealth.

- The precise line of authority between the Commission's Executive Secretary, the Department of State, the Commission as a body, and individual

^{2/}Subsequent to this provision, the State Athletic Commission was transferred under Reorganization Plan No. 6 of 1955, to the Department of State.

Commissioners has been the source of heated debate. In an attempt to clarify these relationships, in October 1983 the Secretary of the Commonwealth wrote a letter to the Executive Secretary stating that for administrative and fiscal affairs, the Executive Secretary was responsible to the Secretary of the Commonwealth and his staff. The letter continued by stating that the Executive Secretary was also to be equally responsive to all three Commissioners, but that any direction received from the Commissioners must be the result of a Commission decision. Specifically, the letter (as read into Commission meeting minutes) states, "...in the event the chairman or any other commissioner presumes to provide direction in your work without proper Commission concurrence, it is your responsibility to advise that person that you may not proceed in the absence of Commission action...." Although much discussion occurred during a November 1983 Commission meeting over the exact meaning of this letter, and despite the presence of the Chief Counsel of the Department of State, no apparent agreement was reached by the various parties on whether or not the Executive Secretary was directly answerable to the Commission's Chairman.

- A review of previous performance evaluation reports for the Executive Secretary indicates that the person signing as the Executive Secretary's "immediate supervisor" was the Chairman of the State Athletic Commission during 1980, 1981 and 1982 and the Executive Deputy Secretary of the Department of State during 1978 and 1979. In a September 1983 letter written by the Department of State's Press Secretary to the Executive Secretary, it was stated, "...you are appointed by the Secretary of the Commonwealth and serve as a Commonwealth employe assigned to the State Athletic Commission. Therefore, you are responsible for your performance, to the Secretary or his representative."^{3/}

- Although the organizational chart provided to the auditors by the Department of State shows the deputy commissioners reporting directly to the Executive Secretary, the auditors could find no clear reporting relationship between the deputy commissioners and the Commission, the individual Commissioners, or the Executive Secretary. For example, it appears that confusion over who is to appoint the deputy commissioners and officials led to four shows in November 1983 not having deputy commissioners in attendance. Although the procedure for assigning deputy commissioners and officials to the SAC events is unwritten, it appears that, at least in the Philadelphia region, prior to approximately October 1983, these appointments were made by the Executive Secretary; subsequent to October 1983, appointments have been made by the Commission's Chairman. In the Scranton and Pittsburgh regions, deputy commissioners are also assigned to events by the individual Commissioners from these regions. According to Department of State job descriptions, however, the work of the deputies is to be supervised by the Executive Secretary.

^{3/}The Department of State informed the auditors that no official performance evaluations are on file for the Executive Secretary since 1982.

- Although some deputy commissioners from the Philadelphia region were suspended from their duties by the Secretary of the Commonwealth, they continued to be assigned to Commission-regulated events and act as official representatives for the Commission. The auditors discussed this situation with the Commission's Chairman and were informed that the reason these deputies continued to receive assignments was that, according to the Chairman, the Department of State failed to provide proof to substantiate the allegations of wrong-doing. The Chairman indicated that to deprive the accused deputies of an opportunity to earn a livelihood would be a serious breach of their fundamental right to due process.

- Confusion also appears to exist with regard to the responsibility of the Executive Secretary and individual Commissioners while in attendance at Commission-regulated events. For example, in September 1984 a professional boxing show was held and, in addition to the chief deputy, the Commission's Chairman and Executive Secretary were in attendance. During the course of this show, an amateur bout was held. According to the Commission's Chairman, the problem with the amateur bout taking place is that liquor was being served on the premises and being consumed at ringside, which is a violation of the Athletic Code. When the Chairman later raised this and other issues with the Department of State, the Executive Secretary responded, in part, that he was at the event to monitor the operations of the deputies and officials, not to do the jobs of the chief deputy or the Commissioner. In the Executive Secretary's opinion, if the Chairman believed any incorrect decisions were made by the chief deputy or the Executive Secretary, they could have been overruled at the event by the Chairman, who apparently chose not to do so.

- The auditors were informed of inconsistent policies and procedures among the various regions of the state. These inconsistencies appear to result, at least in part, from the lack of a clear definition of the role of the Commission versus the role of the individual Commissioners. For example, the President of the USA/American Boxing Federation in the western part of the state indicated that the Commission assigns referees to their amateur boxing events, but such assignments are not made in the eastern region. A similar comment was made by officials involved in the Commonwealth's prison boxing program. These differences were confirmed by Commission members, who also gave indications to the auditors that they intend to resolve this inconsistency. A Commissioner from one region indicated that he would not make assignments to a particular individual due to concerns over the quality of his performance, whereas the Commissioner from another region indicated that he did use this individual. As another example, one Commissioner indicated that he frequently fines professional wrestlers for behavior he deems improper, whereas another Commissioner indicated that he rarely fines or suspends wrestlers.

- Confusion over the lines of authority between the Department of State, the Commission, individual Commissioners, the Executive Secretary, deputy commissioners and officials assigned to SAC events appears to be one reason why the Commission's Chairman and the Commission's Executive Secretary have had virtually no direct communications since approximately late 1983.

E. DEFICIENCIES RELATED TO COMMISSION RULES, REGULATIONS AND PROCEDURES

FINDING: The auditors found that various administrative and operational procedures and regulations developed by the Commission are not followed. Other important procedures, policies and rules are either unwritten or not clearly written. The auditors also found that the Commission has adopted certain rules which have not been promulgated through official channels and that lengthy delays have occurred in the promulgation of the Commission's kick boxing regulations. LB&FC staff recommendations are presented below.

RECOMMENDATIONS:

1. The Athletic Commission, in conjunction with the Department of State, should develop written guidelines and procedures for the assignment of deputy commissioners and officials to Commission-regulated events. It is recommended that these procedures provide for the rotation of assignments among qualified deputy commissioners and officials, with due consideration toward geographic location and the expertise of the individuals assigned. Optimal numbers of deputy commissioners to be assigned to various events should also be established and adhered to. (See also Recommendation G.3.)
2. It is recommended that the assignment of deputy commissioners and officials be made in writing via a letter. The Commission should maintain current telephone numbers of its deputies and officials so that they may be reached quickly in the event that a scheduled event is postponed with little advance notice.
3. The Department of State should work with the Commission to expedite the promulgation of the Commission's kick boxing regulations and should ensure that the officials assigned to kick boxing events are knowledgeable regarding and experienced in kick boxing regulations and skills.
4. To prevent possible confusion, the Commission should develop a map which clearly defines the boundaries of the Commission's various regions. It is recommended that this map follow county boundaries.
5. It is recommended that the Commission and the Department of State develop clear policies regarding the roles and responsibilities of the Commission, individual Commissioners, Commission staff and the Department of State. (See also Recommendations D.1 and D.2.)
6. The Commission should develop procedures whereby State Championship bouts are sanctioned by the full Commission.
7. The Commission, in conjunction with the Department of State, should develop procedures to ensure that complaints filed with the Commission are properly recorded and investigated. These procedures should provide a method of tracking the complaint from receipt to final disposition. It is further recommended that the Commission compile an annual report to be made

available to the General Assembly on the number and types of complaints received and their final disposition, including the number of complaints received resulting in disciplinary action and the nature of the disciplinary action imposed. The Commission's annual report should also include other information pertinent to SAC operations, such as medical injuries, suspensions and license revocations incurred by Commission licensees.

8. The Commission should consult with legal staff to the Department of State to determine whether any of the policies and rules it has established improperly circumvent official procedures for promulgation of Commonwealth rules and regulations.

9. The Executive Secretary should compile the required monthly bulletin on Commission policies, procedures and personnel changes.

DISCUSSION:

In reviewing the Commission's administrative policies and procedures, the auditors found the following examples of weaknesses in the development and/or execution of Commission rules, regulations and procedures:

- Procedures for assigning deputy commissioners and officials to Commission-regulated events not documented. During the course of the audit, the auditors were informed by various deputy commissioners and officials licensed by the Commission of concerns over the manner in which assignments to events are made. Specific concerns raised include:

- assignments not made in writing, and assignments cancelled and changed without individuals being properly advised
- assignments not made until the day before (or after) the event
- receiving assignments for events held at significant distances from their place of residence, while not being assigned to events held much closer to their homes
- some deputies and officials receiving few or no assignments
- too many deputies assigned to some events
- officials, including a physician, who believed they would be needed but who have been called upon infrequently

The State Athletic Commission Desk Manual does not include a section describing the procedures to be used in assigning chief deputy commissioners, deputy commissioner and officials to Commission-regulated shows. The auditors did find a policy memorandum dated September 25, 1980, regarding assignment to shows, but this memorandum does not describe who is to make these appointments nor what procedures or criteria are to be followed when making such appointments. Based on interviews and documents reviewed by the auditors, it was found that the assignment of deputy commissioners and officials is currently made by the individual Commissioners, with virtually no involvement by the Commission's Executive Secretary. (See also Finding D.)

According to the September 1980 procedures, the optimum number of deputies (including the chief deputy commissioner) for large arena professional boxing shows is seven, for a small arena professional boxing show four, and for a professional wrestling show four. A review of 16 shows held during 1986 and early 1987 found that these optimal levels are often not adhered to. For example, 9 deputies attended a January 1986 professional wrestling show at the Pittsburgh Civic Arena, 6 deputies attended a small arena professional boxing show in July 1986, and 10 deputies attended a July 1986 professional wrestling show at the Veteran's Stadium in Philadelphia. During the course of the audit the auditors attended a professional wrestling show at the Pittsburgh Civic Arena at which 11 deputies were in attendance. The auditors also attended a professional wrestling show in York at which only one deputy, the chief deputy, was in attendance. The chief deputy deputized an acquaintance at the event to assist with the show.

- Procedures to ensure proper receipt of license fees not followed. As described in Finding K of this report, the Commission has developed various procedures in an attempt to ensure that After Contest Reports are properly completed and that all license fees collected by the Commission are recorded completely and accurately. The auditors' review of After Contest Reports and internal accounting controls showed, however, that these procedures are not followed.

- Procedures for granting Commission licenses not followed. As described in Findings F and J, the procedures established by the Commission to investigate and test licensees to ensure that they are properly qualified do not appear to be followed. Moreover, the auditors found it commonplace for Commission licensees to submit incomplete licensure applications.

- Delay in promulgation of kick boxing regulations. Although kick boxing was specifically included under the Commission's jurisdiction in November 1983 (Act 62), the Commission has yet to propose rules and regulations for kick boxing events. Commission meeting minutes indicate that suggested rules and regulations had been drafted by December 1983, but were not adopted by the Commission until September 1985. As of early 1987, these regulations were still under review by the Department of State's legal staff.

- Commission regions not clearly defined. The Commission has divided the state into geographic districts, but these districts have not been clearly defined. The Executive Secretary provided to the auditors the boundaries of the various regions, but these boundaries only identify the regions' four corner points; it is not stated for example whether the boundary lines between these points are straight or whether the boundaries follow county lines.

- Commission roles and responsibilities not clear. As described in Finding C of this report, there appears to be substantial confusion over the proper role and responsibilities of the Department of State, the Commission, the individual Commissioners and the Executive Secretary and other Commission staff.

- State Championship bouts not sanctioned by full Commission. Section 21.15 of the Athletic Commission regulations state that the Commission is to establish state boxing championships in all recognized weight classes. The auditors attended a State Championship bout with the Commission's Chairman during the course of the sunset performance audit. According to the Chairman, State Championship bouts occur sometimes as the result of a particular promoter presenting to a member of the Commission the names of two Pennsylvania boxers which the promoter believes to be the best in their weight class. A bout between these two boxers is then, at least at times, considered a "State Championship" bout without there having been an official sanctioning action for that bout at a meeting of the full State Athletic Commission.

- Procedures do not exist to ensure that complaints are properly received and investigated. The Commission does not appear to have any formal procedures for recording, tracking and investigating complaints it may receive regarding boxers, wrestlers, promoters, referees or other officials licensed by the Commission. When asked for a listing of complaints and any subsequent disciplinary action taken by the Commission, the auditors were informed that for the past three years the Commission has not maintained official records on the number of complaints received, the number of complaints investigated, the number of complaints found to be valid or the number of complaints that have resulted in disciplinary actions being taken against the license holder.

- Certain Commission policies and rules are inconsistent and/or may circumvent the regulatory process. During a Commission meeting in July 1986, discussion occurred regarding the manner in which certain policies of the Commission are established. Specifically cited was the apparent policy in the Philadelphia region that all amateur boxers must use thumbless gloves. According to Commission minutes, the Secretary of the Commonwealth stated that this policy was not consistent, and that it was not correct for the Commission to be selective in putting some rules in force without following established procedures. The Chief Counsel to the Department of State informed the Commission that Commonwealth Court was cracking down on agencies using policy to circumvent established rule-making procedures. Other rules and policies established either by the Commission or by individual Commissioners which may be subject to formal review through the regulatory process or which may be inconsistently applied across the Commonwealth are:

- The requirement that all amateur boxers wear headgear
- Mandatory drug testing for State Championship bouts
- The assignment of Commission-licensed referees to amateur boxing matches in the Pittsburgh region, but not other regions of the state
- A ban on the use of certain substances in the ring by seconds
- A rule requiring mandatory retirement for any boxer who has suffered a detached retina

- Monthly bulletin on Commission policies and procedures not compiled.

According to Athletic Commission regulations, the Executive Secretary is to act as the editor for a monthly bulletin to be disseminated to all Commissioners, deputy commissioners and officials covering changes in Commission policies and procedures, personnel changes and "... any other information pertinent to current operations." When asked about this bulletin, the Executive Secretary informed the auditors that this bulletin has not been compiled since April 1984.

F. DEFICIENCIES IN COMMISSION FILES AND RECORD-KEEPING PRACTICES

FINDING: The auditors' review of Commission files and record-keeping practices found deficiencies in the following areas: After Contest Reports (the primary documents used by the Commission in determining fee collections and bout results) which were incomplete or incorrectly completed; license files which did not include required photographs and which were missing other required information; boxer records which were incomplete or not updated in a timely manner; no alphabetized listing of Commission licensees; instances in which licensees were required to pay twice for their annual license; lack of a centralized filing system; files which are needed in the Philadelphia office but which are located in the Commission's Harrisburg office; and frequent instances of licensees paying their license fee but not receiving license cards. Various explanations were provided for these deficiencies, but the deficiencies remain nonetheless. The auditors make the following recommendations to improve the Commission's filing and record-keeping practices:

RECOMMENDATIONS:

1. The Commission and the Department of State should review and, where necessary, modify existing procedures to ensure that After Contest Reports are completely and correctly completed. It is recommended that these procedures require Commission staff to initial, with dates, their review of the reports to provide a mechanism for accountability of administrative responsibility.
2. The auditors recommend that the Commission issue wallet-sized picture identification cards to all licensees and deputy commissioners. The auditors reviewed two photo ID systems the Commission may wish to consider: one in which the face and personal identification facts are filmed together (cost \$2,295) and one in which the face photo and facts card are separate but sealed together (cost \$1,695, including camera). Either system can produce photo identification cards on-site (e.g., during weigh-ins or possibly at Commission-regulated events) within minutes.
3. It is recommended that the Commission obtain a computer or computer services which would allow timely updating of bout results and boxer medical records. This system should have the capability of communicating with other computer data bases, including the central data base (located in New Jersey) which was appointed in January 1986 by the Association of Boxing Commissioners to compile boxing results. (See also Recommendation C.3.)
4. All Commission's offices should have ready access, via computer, of a current, alphabetized listing of all Commission licensees, including their category of license. All offices should also have access to a printer so

that this listing can be printed on hard copy. To prevent double-charging, such a listing should be consulted before licensing any individual.

5. The Commission and the Department of State should determine the need for a centralized administrative filing system. In making this determination, the auditors recommend consideration be given to the Department of State's oversight role, staffing patterns of the regional offices and the need at the regional offices for convenient access to Commission records. If important Commission records were automated and if the regional offices had access to these records via computer, centralized filing would not necessarily preclude ready access to Commission files by the regional offices.

G. NEED FOR CHANGES IN CURRENT REGULATORY ENVIRONMENT OF PROFESSIONAL WRESTLING, AMATEUR BOXING AND AMATEUR WRESTLING

FINDING: The statutory and regulatory requirements found in the Pennsylvania Athletic Code and the Athletic Commission's regulations regarding professional and amateur wrestling are, in some cases, ignored by the Athletic Commission and by the participants engaged in these activities. As shown below, many of these statutory and regulatory requirements are unrealistic, and major revisions in the regulatory environment for these activities are necessary. The auditors also found inconsistencies in the regulatory environment for amateur boxing among the eastern and western regions of the state. LB&FC staff recommendations regarding professional wrestling and amateur boxing and wrestling are presented below.

RECOMMENDATIONS:

1. The General Assembly should amend the Pennsylvania Athletic Code to reflect the reality of professional wrestling as it currently exists in Pennsylvania. The auditors recommend, however, that the General Assembly continue the Athletic Commission's jurisdiction to regulate professional wrestling. It is recommended that such regulation include:

- Continued licensing and bonding of professional wrestling promoters
- Continued licensing of professional wrestlers
- Continued licensing of professional wrestling referees
- Unless determined otherwise by the Medical Advisory Board (once activated), continued pre-bout physical examinations of professional wrestlers
- The Commission should promulgate realistic safety regulations for professional wrestling bouts. Such regulations might include, for example, prohibitions against cutting; a ban on using unyielding objects (e.g., folding chairs) against opponents; prohibitions against physical contact between wrestlers and fans; protections for the safety of Commission-appointed referees; and minimum numbers of security personnel (hired and paid for by the arena or promoter) to be present during events.

2. The auditors recommend that professional wrestling promoters be legally responsible for making proper payment of wrestler license fees and the 5% additional license fee on gross receipts. These fees should be paid to the Commission within a specified time period, with penalties imposed for improper filings. (See also Recommendation K.1.)

3. It is recommended that the Commission consider reducing the number of deputy commissioners assigned to professional wrestling events. LB&FC staff recommends that one deputy be assigned to each event, whose primary responsibility would be to report any observed infractions to the Commission. The deputy would not be attending as an official "in charge" of the event, but rather as an observer to identify any rules and regulations that may be violated. The Commission could then make an investigation and, if appropriate, take disciplinary action against the offender(s).

4. It is recommended that the General Assembly remove amateur wrestling from the jurisdiction of the State Athletic Commission. Although the potential for injury in amateur wrestling appears real (see Finding A), the magnitude of effort which would be required to consistently and meaningfully regulate the sport is, in the auditors' opinion, beyond what could ever be reasonably expected of the State Athletic Commission. Attempts to properly regulate particularly youth wrestling would be tantamount to attempting state regulation of little league football.

5. The auditors recommend that the Commission adopt consistent, statewide procedures for regulating amateur boxing. If the Commission determines that it is in the best interest of amateur boxers and the public to assign Commission-licensed referees to amateur bouts, it is recommended that all such referees be USA/ABF certified.

6. The auditors recommend that the standing committee assigned sunset review of the State Athletic Commission consider whether or not the prison boxing programs conducted by the Department of Corrections should be exempt from any aspects of regulation by the State Athletic Commission. It is further recommended that the standing committee solicit input on this matter from both the State Athletic Commission and the Department of Corrections.

DISCUSSION:

Professional Wrestling

As discussed in Finding A of this report, Section 212 of the Pennsylvania Athletic Code requires the Athletic Commission to promulgate rules and regulations for professional wrestling contests and exhibitions which "... shall contain such safeguards and other conditions as will insure fair, sportsmanlike, scientific and genuine wrestling contests." Toward this end, the Commission has promulgated extensive regulations regarding the conduct of bouts, the duties and responsibilities of professional wrestling referees, and the safety code under which such exhibitions are to be conducted. The auditors attended five professional wrestling exhibitions across the Commonwealth and found that virtually all of these regulations are violated with regularity.

For example, despite a requirement in the Athletic Code that any advertisement for a professional wrestling bout must include a conspicuous statement of whether it is a contest or an exhibition, the auditors found newspaper advertisements for "title events" which made no mention of their status as exhibition bouts. According to the Commission's regulations, all contestants in professional wrestling matches must wear conventional wrestling trunks or full length tights, no wrestler may strike or physically or orally abuse any spectator or ring official, and if a wrestler leaves the ring during the match and fails to return within the count of ten he is to be disqualified. The safety code for professional wrestling matches forbids many activities, including pulling hair or equipment, striking with the fist, kicking, stomping, kneeling, choking, body slamming, ramming an opponent into a ring post, or carrying any object into the ring. The safety code also contains a provision specifically forbidding the waiving or relaxation of any protective regulation established by the Athletic Code or by the Commission's regulations. In short, the Commission's regulations are designed to regulate a genuine competitive sport, not commercial professional wrestling as it now exists in the Commonwealth. (See Exhibit A for a sampling of comments received by LB&FC staff regarding the need for changes to the current regulatory environment for professional wrestling.)

Amateur Wrestling

Unlike professional wrestling, amateur wrestling is a true and genuine sport. Although the Athletic Commission does not have jurisdiction over amateur wrestling conducted by schools and colleges, the auditors found that Pennsylvania does have a number of very active amateur wrestling programs, generally conducted through "booster clubs," which do fall under the Commission's jurisdiction. However, the requirements found in the Athletic Code and in the Commission's regulations regarding amateur wrestling are generally incompatible with the amateur wrestling programs found in the Commonwealth. For example:

- Commission regulations forbid boys under 16 from engaging in any amateur wrestling bout under the Commission's jurisdiction. (The Athletic Code, however, permits wrestlers between the ages of 12 and 16 to compete with written permission from the wrestler's parents or guardians.) The auditors spoke to an official with the USA Wrestling Association, the national governing body for amateur wrestling, and found that although his organization does not collect statistics on the number of members under age 16 competing in Pennsylvania, nationally about 70 percent of the Association's 94,000 wrestlers are under 16. This official indicated that the percentage would probably be about the same in Pennsylvania. In discussions with the Middle Atlantic A.A.U. Wrestling Chairman, the auditors were informed that wrestling tournaments held in Pennsylvania include age classes for 8 and under, 9-10, 11-12, 13-14 and 15-16. As such, it would appear that many amateur bouts are held between contestants not only under age 16 but also under age 12.

EXHIBIT A

EXAMPLES OF SURVEY RESPONSES REGARDING PROFESSIONAL WRESTLING

1. Suggestion made that professional wrestling be dropped from the auspices of the Athletic Commission because it is strictly entertainment and the question of who will win is never in doubt. Respondent goes on to state that every rule and regulation in the state's book is broken.
2. Respondent states that professional wrestling is a "choreographed stage show and not an athletic event and should not be under the jurisdiction of the Commission." Promoter states that it is "ridiculous" to send out a person from the Commission to be a timekeeper and charge a fee for this when persons who work with the show are available to do this job and they can do it better. The respondent calls it a "rip-off" to be forced into using the Commission announcer when the announcer who travels with the show is present and knows the show better than the Commission staff person.
3. Professional wrestling promoter alleges that state laws are administered arbitrarily and that professional wrestling should be deregulated in the Commonwealth. The point is make that professional wrestling is not in the "professional sport business" it is a "sport entertainment business like the Harlem Globe Trotters and the Ice Capades." Statement is made that professional wrestling has been deregulated in Massachusetts, Connecticut, Florida and Indiana and that by deregulating professional wrestling in Pennsylvania savings for the tax payer could be realized in personnel and office costs.
4. Respondent also indicates that several ring announcers who were presently being used by the Commission are not suitable for their job as they "mispronounce names and have poor grammar." The person further alleges that several wrestling groups have moved their TV operations out of the Commonwealth due to what they consider to be unnecessary regulations. The questionnaire respondent indicates that it is not possible to govern professional wrestling since wrestlers are professional entertainers and basically does not believe that government has a role to play in professional wrestling.
5. A professional wrestler suggests that wrestling organizations be allowed to employ their own referees, timekeepers and doctors and that doctors could then check on wrestlers and forward reports to the Commission. It is further suggested that the wrestling organization's referees and timekeepers could take tests periodically to qualify.
6. A professional wrestler made the statement that he is in "show business" and as a showman and entertainer he does not believe that he should be subject to regulation by the state.

Source: Responses to LB&FC Sunset Performance Audit Questionnaire to Commission staff and licensees.

- Commission regulations require that all wrestlers are to be weighed-in by a representative of the Commission on Commission-approved scales, to report to the dressing quarters at the site of the event at least one hour prior to the scheduled starting time, to remain in that area until directed to the mat by an authorized representative of the Commission, and to retire directly to the dressing quarters following the bout decision. Commission regulations also require that the Commission is to appoint all referees and is to appoint or approve all mat chairmen and timekeepers. According to the officials with whom the auditors spoke, thousands of amateur wrestling meets and tournaments are held every year in Pennsylvania. Tournaments often involving between 300 and 800 participants per tournament. These officials believe the cost and logistics of these requirements are both unnecessary and unrealistic.

- Only freestyle rules may be used in tournaments under the jurisdiction of the Commission. As a result, under the Commission's regulations Greco-Roman wrestling and PIAA/NCAA (collegiate-style) wrestling are forbidden. According to amateur wrestling officials contacted by the auditors, many nonscholastic amateur wrestling programs in Pennsylvania use PIAA/NCAA rules.

- Other concerns voiced to the auditors about Pennsylvania's Athletic Code and Commission regulations include the definition of the term "amateur" which may exclude organizations from paying the expenses of top state wrestlers in national tournaments; the requirement that every wrestler be examined by a physician within two hours of his bout; statutory limitations on weight differences which conflict with rules established by amateur wrestling associations; insurance requirements which may be redundant to requirements already established by amateur wrestling associations; and licensing fee and permit requirements which, in the opinion of the officials with whom the auditors spoke, would be both logistically burdensome and financially untenable.

Amateur Boxing

As described in Finding A of this report, all amateur boxing in Pennsylvania (with the exception of bouts between prison inmates) falls under the jurisdiction of the United States of America/Amateur Boxing Federation. Pennsylvania is divided into two USA/ABF regions, eastern and western. The auditors discussed amateur boxing in Pennsylvania with the Presidents of both these regions, as well as with representatives of the Department of Corrections involved with the state's prison boxing program. These officials voiced the following concerns:

- Both USA/ABF officials and officials from the Department of Corrections indicated that the Athletic Commission appoints referees to their bouts. Promoters of these bouts pay these referees up to \$100

per event, and frequently 2 or 3 referees are required during the event. The USA/ABF officials indicated that in other states such as New York and New Jersey, these bouts are officiated by volunteer referees, each of whom must be tested and certified by the USA/ABF annually. Officials from the Department of Corrections also indicated that their apprenticeship referee program for inmates suffers because they are not afforded the opportunity to place the apprentice, with proper supervision, in actual bouts if the Commission insists that the Department use only Commission-appointed referees.

- According to the USA/ABF and Department of Corrections officials with whom the auditors spoke, there are inconsistencies and a lack of uniformity in enforcement of the rules and regulations regarding amateur boxing events. According to these officials, the Athletic Commissioner in the western region of the state requires that amateur bouts be officiated by referees appointed by the Commission, whereas in the eastern region of the state the amateur associations are permitted to appoint their own referees. This discrepancy was confirmed by the members of the Athletic Commission, who also gave indications to the auditors that they intend to resolve this inconsistency.

- In addition to the costs involved in using Commission-appointed referees, the auditors were also informed that these referees may be professional boxing referees who have had little experience with the rules governing amateur bouts. According to the USA/ABF officials with whom the auditors spoke, amateur boxing rules differ markedly from professional boxing rules. One particular difference cited was the standing eight count rule, which is to be imposed in amateur boxing whenever a dazing blow is sustained. The USA/ABF President in the western region of the state informed the auditors that they have been assigned professional boxing referees who, apparently due to their training in professional boxing, are reluctant to impose this rule. According to the USA/ABF President, strict enforcement of the standing eight count is an important rule to maintain safety in amateur boxing. The USA/ABF President in the western region informed the auditors that his region includes part of Ohio and West Virginia, and that he now holds all regional tournaments in one of these states due primarily to his concerns over the cost and type of referees the Commission might assign if the tournament was held in western Pennsylvania.

H. LACK OF SUFFICIENT ATTENTION TO SAFETY CONSIDERATIONS IN BOXING

FINDING: Many of the provisions found in the Athletic Code and Commission regulations designed to enhance safety in professional boxing are not followed or enforced. In particular, the Commission's Medical Advisory Board, which is to recommend safety standards for professional boxing, has not existed since approximately 1981 and Commission employees and licensees do not undergo medical training seminars required by the Athletic Code. The auditors also found that it was not uncommon for boxers to continue fighting while under medical suspension or to continue their boxing career despite have suffered repeated knockouts or severe beatings. LB&FC recommendations are presented below.

RECOMMENDATIONS:

1. The Department of State, in conjunction with appropriate officials in the Governor's office, should take the lead in re-establishing the Medical Advisory Board. The auditors recommend that this Board then establish safety standards for boxing and wrestling for consideration by the Athletic Commission. If the Advisory Board and the Commission cannot establish and implement safety standards agreeable to both parties within a reasonable period of time, the auditors recommend that the General Assembly give consideration to banning professional and amateur boxing in the Commonwealth until such time as appropriate safety measures can be put into effect.
2. The auditors recommend that the Commission computerize all professional bout results in Pennsylvania, with all Commission offices having ready access to a listing of Pennsylvania-licensed boxers under suspension. It is recommended that bout results be entered into the Commission's computer within two business days after the event. Use should also be made of the national computerized data bank of bout results to determine boxers who should be suspended as a result of knockouts or technical knockouts from bouts outside Pennsylvania. This listing should be provided to the chief deputy commissioner at all professional boxing events.
3. It is recommended that the Commission develop a computerized report to show all Pennsylvania-licensed boxers who have suffered five or more consecutive defeats or who have been repeatedly knocked out. (The Athletic Code states that boxers who have suffered six consecutive defeats shall be investigated by the Commission. Commission regulations, however, provide that the Commission may suspend a boxer who has had five consecutive defeats.) Use should also be made of the national computerized data bank of bout results to determine the number of consecutive defeats and repeated knockouts of boxers wishing to compete in Pennsylvania. Before any of these boxers are permitted to box professionally in Pennsylvania, an investigation should be made by the Commission to determine if they are physically and mentally fit to box professionally.

4. The Commission should enforce the provisions of the Athletic Code requiring an EEG within 24 hours of a knockout and physical examinations within 5 days of the bout for all boxers. The auditors recommend that any boxer or promoter who does not comply with these requirements be fined and/or have his license suspended or revoked. All boxers who are knocked out should provide the results of his subsequent EEG examination to a Commission-licensed physician prior to any further bouts in Pennsylvania.
5. The Commission should enforce the provisions of the Athletic Code requiring an ambulance to be on the premises for all professional and amateur boxing events.
6. The auditors recommend that the General Assembly authorize the Athletic Commission to license all training facilities for all boxers under the Commission's jurisdiction. The Commission should then promulgate health and safety regulations for such facilities and should develop a program for periodic inspection of these facilities to ensure compliance with statutory and regulatory requirements.
7. The auditors recommend that once boxer medical records and bout results are computerized, a printout of the medical records and bout results be provided to the physician for each boxer being examined. It is recommended that these records include medical information which may have been obtained by the Commission from other states.
8. The auditors recommend that the General Assembly amend the Athletic Code to require mandatory drug tests as a specific component of pre-bout physical examinations. It is recommended that the Commission, in concert with the Medical Advisory Board, determine those substances which, if used by a boxer, might affect his reflexes or otherwise impair his judgment or ability to protect himself during a bout.
9. The State Athletic Commission should hold medical training seminars for all ring personnel and Commission employees as required by the Athletic Code. (See also Recommendation I.2 and J.4.)

DISCUSSION:

There are a number of deficiencies in Commission operations and areas of noncompliance with law and regulation which result in a lack of sufficient safety measures, especially in relation to professional boxing. These deficiencies include:

- No Medical Advisory Board. As described in Finding C of this report, Pennsylvania has not had an active Medical Advisory Board since approximately 1981. The purpose of this Board, as described in the Athletic Code, is to prepare and submit to the Commission for its approval standards for the physical and mental examination of boxers and wrestlers to safeguard their health and to recommend to the Commission physicians who are qualified to

make examinations of boxers and wrestlers. In October 1984 the Commission's Chairman wrote to the Secretary of the Commonwealth that steps should be taken toward suspending boxing in the Commonwealth until there is a functioning Medical Advisory Board and until "...we have arrived at a comprehensive plan to insure the safety of those who choose to engage in the sport and/or profession of boxing." The Chairman repeated his belief that boxing should be banned until Pennsylvania has a functioning Medical Advisory Board in correspondence dated December 1985, February 1986, and November 1986.

The New York Athletic Code also provides for a Medical Advisory Board. Its Board, in addition to duties similar to that of Pennsylvania's Board, also has responsibility to develop appropriate medical education programs for all Commission personnel so that they can act upon potential or actual adverse medical indications; to review the credentials and performance of each Commission physician on an annual basis as a condition of reappointment; recommend to the Commission a compilation of medical publications on the medical aspects of boxing to be available for review by Commission personnel; and to advise the Commission on any study of equipment, procedures or personnel which will, in their opinion, promote the safety of boxing and wrestling participants.^{1/}

- Boxers fighting while under suspension. As a safety consideration, the Pennsylvania Athletic Code allows the Commission to suspend a boxer's license for up to 30 days for a technical knockout (TKO) with minor injuries (up to 45 days for a technical knockout with head injuries) and up to 90 days for a knockout (KO). Currently, the Commission suspends for periods of 30 and 60 days for a technical knockout and a knockout respectively. The auditors, however, found numerous examples of Pennsylvania-licensed professional boxers who continued competing while under suspension. A review of these boxers' files showed no evidence of disciplinary action having been taken against these boxers for boxing while under suspension.

- Boxers fighting after consecutive defeats. The State Athletic Code requires that boxers who have suffered six consecutive defeats shall be investigated by the Commission and examined by a physician. The Code also requires that boxers who are repeatedly knocked out and severely beaten shall be retired if the Commission decides such action is necessary in

^{1/}The auditors contacted officials at the New York State Athletic Commission and the New Jersey State Athletic Control Board. In addition to the New York Medical Advisory Board, the New York Commission has a full-time medical director and a full-time medical consultant, both of whom are physicians, on staff. The New York Commission also has a full-time medical technician on staff to operate the X-ray, EEG and EKG machines located at the Commission's office. As a result of legislation passed two years ago, New Jersey has also established a Medical Advisory Council. However, to date, only two of the Council's three members have been appointed.

order to protect the boxer. LB&FC staff, however, found instances of Pennsylvania-licensed boxers who have suffered six or more consecutive defeats or who have been repeatedly knocked out or severely beaten. The auditors reviewed the Commission's files on these boxers and found no evidence that the Commission had conducted an investigation of these boxers or that the required medical examination had been conducted.

- Boxers suffering knockouts not receiving EEGs. Section 204.4 of the Athletic Code requires that any boxer receiving a knockout must receive an electroencephalogram (EEG) within 24 hours of the knockout. The auditors' review of medical files of selected boxers who have been knocked out found no evidence to suggest that this requirement is being followed. However, there is no way to verify if a boxer has complied with the order because the results of the test are not required to be filed with the Commission. Both the Chairman of the Commission and the Executive Secretary acknowledged that the requirement for an EEG is not enforced, primarily due to the cost of the test, and that it is unlikely that many boxers would voluntarily pay for this test.

New Jersey requires EEG, EKG, and an ophthalmological examination after each knockout, which may total as high as \$400 - \$500. However, New Jersey has negotiated with a local hospital to provide examinations at a reduced "package" rate of \$200. The boxers pay for these exams, although an official in New Jersey informed the auditors that sometimes the promoters will absorb part of the cost.

It has been suggested to the auditors that Pennsylvania should be careful in delineating precisely what tests boxers should undergo after knockouts. For example, one physician familiar with boxing suggested that a CT scan might be more appropriate for a boxer who has been recently knocked out rather than an EEG. On the other hand, EEGs have been described as useful tests to detect and distinguish among certain progressive degenerative neurological problems and may be appropriate, for example, during initial licensing and during annual licensing physicals to identify possible deteriorating physical conditions.

- Boxers not examined by physician within 5 days after bouts. Section 204.4 of the Athletic Code requires that every boxer be examined by a physician within five days following the contest or exhibition in which he was a participant, with the results being placed on file with the Commission. The cost of this examination is to be paid by the promoter. A review of professional boxing files indicates little compliance with this provision, and the Executive Secretary indicated that this provision is not enforced.

- Ambulance may not always be on premises. Section 204.3 of the Athletic Code requires that no professional or amateur boxing event shall take place unless an ambulance is on the premises. On January 13, 1987, a professional boxer was severely injured during a bout in Philadelphia, but an ambulance was apparently not on the premises. According to the physician's

report, a fire rescue vehicle arrived approximately 15 minutes after being summoned by the physician.

- Training facilities not inspected. Section 21.16 of the Commission's regulations, the Safety Code, requires that if a boxer is knocked out, as part of the required suspension he is not permitted to spar during his training exercises. The Safety Code also grants the Commission the authority to enter and inspect all training quarters of boxers under the jurisdiction of the Commission to observe the conduct, facilities, and cleanliness of the quarters and to appraise the activities and physical conditioning of the boxers during training. The Commission's Chairman and the Executive Secretary both informed the auditors that the Commission does not currently monitor the activities or condition of training facilities. According to the Commission's Executive Secretary, the Commission did embark on a brief program to inspect training facilities in 1981, inspecting three gyms and submitting short check lists on their conditions. According to the Executive Secretary, funding for the inspectors was not available and the Executive Secretary was authorized to place the program on hold. The issue was renewed in the Fall of 1986, and procedures for inspection and registration of training facilities have been formulated. These procedures have yet to appear before the Commission for consideration, but funds for the program have been included in the Commission's 1987-88 budget request.

The need to regulate training facilities was discussed during a hearing by the Special Commission on Boxing held in September 1986. During this testimony, the Chairman of the Athletic Commission agreed that most fighters get hurt in the gym. The Chairman of the New York State Athletic Commission also reported that boxers get hurt in gyms, and that one day in the gym can be the equivalent of a 10-round bout. The New York Chairman reported that they are attempting to license gyms and bring gyms under the jurisdiction of the Commission. According to a December 1986 report prepared by the Maryland State Athletic Commission, six states (California, Illinois, Louisiana, New Jersey, New York and Minnesota) regulate boxing gymnasiums and training facilities. The Maryland Commission recommended that it be granted the authority to license and promulgate regulations concerning the operations of professional and amateur boxing training facilities.

- Sufficient information may not be available to prevent mismatches. The auditors were informed by various persons that mismatched bouts can be very dangerous to the outranked boxer. For example, a Commissioner with the Michigan Athletic Commission informed the auditors that in Michigan they believe that close monitoring of match-making, especially for out-of-state boxers, is one of the best safeguards available. However, Pennsylvania does not have a good system, other than information obtained directly from the boxer, for obtaining ready access a boxer's record. The auditors realize that a boxer's record may not be a perfect measure of the quality of the boxer. However, the auditors reviewed boxer records which indicate that boxers with widely divergent records have competed in bouts in Pennsylvania. While these boxers might have been matched with full recognition that their records did not accurately reflect the relative quality of the boxers' skills, it would also appear possible that the bouts were sanc-

tioned simply because the officials involved did not have a convenient source of information against which to compare the records of these boxers.

- Licensure applications do not require medical information. Neither Pennsylvania's Athletic Code nor the Commission's rules and regulations require any medical examinations or medical information prior to licensure, and the application form for professional boxers does not ask for any medical information. As described in Finding J of this report, New Jersey requires extensive medical testing, including an electrocardiogram, electroencephalogram and thorough ophthalmological examination, prior to licensure and licensure renewal. New Jersey also requires that at least one of the physicians conducting the examination be certified in neurology or neurosurgery. Prior to obtaining an original license in New York, professional boxers must submit to a thorough medical examination by a Commission-approved physician which must include EEG and EKG examinations, a chest X-ray, and serological tests.

- Pre-fight physician physical reports not complete. Athletic Commission regulations require that all professional and amateur boxers be examined by a Commission-licensed physician before a bout. A physician at one of the professional boxing shows attended by the auditors expressed his belief that a more rigorous physical examination is needed of boxers prior to allowing them to fight. According to this physician, all that is done now is to take blood pressure and to listen to the contestant's chest, with no real attempt to conduct a true physical examination. This physician's assessment of current practices appears to be confirmed by the pre-fight physician reports reviewed by the auditors. Although the completeness of these physician reports vary, many of the reports reviewed by the auditors contained little more than information on age, weight, blood pressure, pulse rate and a notation regarding the contestant's heart condition. Often the spaces on the form where the physician is to record lung, abdomen and neurological information were left blank or contained only a check mark or a one-word response such as "normal". The physician's report also contains a section to be completed by the contestants, including information on any recent illnesses, date of the last bout, and number of times knocked out in the past 12 months. The auditors found that this section is often incomplete or left completely blank. In other instances, the boxer reported incorrect information (e.g., reporting no knockouts in the past 12 months when such knockouts had in fact occurred.)

The auditors reviewed requirements for pre-fight physical examinations in New Jersey and found that according to New Jersey's regulations the pre-fight physical must include a "...thorough ophthalmological and neurological examination and urinalysis." In New York, the procedures for a pre-fight physical are not specifically enumerated in the Commission's regulations, but the medical examination room at which the pre-fight physical is held must contain specified equipment, including X-ray, electrocardiographic (EKG) and electroencephalographic (EEG) machines; ophthalmoscopes; and laboratory equipment for chemical tests.

- Post-fight physicals. Pennsylvania regulations do not require post-fight physicals immediately after the bout, although in the event of a knockout or technical knockout the physician is to "...follow up ministrations in the ring or at ringside by further examination in the dressing room and shall there take such measures and give such instructions as may be appropriate." In New Jersey, immediately after all bouts all boxers must be given a physical examination which must include thorough ophthalmological and neurological examinations.

- Lack of accurate, current records on boxers. The register of bout results maintained by the Athletic Commission is updated based on After Contest Reports submitted to the Commission. The auditors found that while the register of professional boxing bout results appears to be generally complete and accurate, some boxing results have not been recorded and other results are not recorded until days or even weeks after the event occurred. It is important that these records be complete and up-to-date because this information is used in Pennsylvania and other states to determine whether bouts should be sanctioned.

- Drug tests only required for State Championship bouts. Pennsylvania's Athletic Commission requires drug tests only for State Championship bouts. By contrast, in New Jersey all drugs, including narcotics, stimulants and depressants, are specifically forbidden. All professional boxers must undergo a urinalysis during the post-fight physical. The New York State Athletic Commission requires compulsory drug tests before each bout.

I. DEFICIENCIES RELATED TO HIRING, TRAINING AND ASSIGNMENT OF COMMISSION STAFF

FINDING: Few formal procedures exist to ensure that deputy commissioners assigned to Commission-regulated events are competent and sufficiently trained to perform their duties. Concerns were also voiced to the auditors about the Commission's procedures for assigning deputy commissioners to Commission-regulated events and for identifying all deputy commissioners as bona fide Commission employees. LB&FC recommendations are presented below.

RECOMMENDATIONS:

1. The auditors recommend that the Department of State develop a pre-employment test for deputy commissioners to ensure that the deputy commissioners hired have the required knowledge and skills to perform their duties and that all chief deputy commissioners and deputy commissioners receive periodic performance evaluations. It is also recommended that consideration be given toward civil service status for these positions, such as now exists for investigators for the professional licensure boards within the Department of State's Bureau of Professional and Occupational Affairs.
2. The auditors recommend that the Executive Secretary conduct required medical seminars and annual training programs for Commission staff. Until the Medical Advisory Board can assist in this effort, the auditors recommend that the Executive Secretary work with the Commission to develop the materials to be covered during the medical seminars.
3. The auditors recommend that the Commission and the Department of State develop written guidelines and procedures for the assignment of chief deputy commissioners and deputy commissioners. It is recommended that these procedures provide for the rotation of assignments among qualified deputies, with due consideration toward geographic location and the expertise of the individuals assigned. (See also Recommendation E.1 and G.3.)
4. The auditors recommend that chief deputy commissioners assigned to kick boxing events be knowledgeable about and have had experience with kick boxing and/or karate.
5. It is recommended that all deputy commissioners be issued official state badges and photo identification cards. (See also Recommendation F.2.)

DISCUSSION:

Through the auditors' review of Commission personnel practices and interviews with Commission and Department of State officials, the auditors found the following deficiencies with regard to Commission staff:

- Deputy commissioners not tested for competence or evaluated on performance. During the course of the audit, concerns were voiced to the auditors over the qualifications of the Commission's deputy commissioners. These individuals are noncivil service, per diem employees of the Department of State who receive \$40 per event, plus \$10 for weigh-ins. Chief deputy commissioners receive \$55 per event, plus \$10 for weigh-ins. Although the deputy commissioners are required to have basic skills (e.g., mathematical and writing abilities at the eighth grade level), the Department does not administer tests to ensure that these qualifications are met. A review of deputy commissioner job applications found five deputies who failed to report on the application form whether or not they had completed eighth grade. The auditors were also informed by the Personnel Office in the Department of State that deputy commissioners do not undergo performance evaluations.

- Mandatory medical training seminars not conducted. The Pennsylvania Athletic Code requires that the Commission conduct at least three mandatory medical training seminars every year for all ring personnel, Commission personnel and for anyone else employed by the Commission and designated to attend Commission regulated events. The auditors were informed by the Commission's Executive Secretary that, due to the lack of a Medical Advisory Board, these medical seminars have never been held.

In addition to the required medical seminars, Commission regulations require that all deputy commissioners participate in annual training programs to be conducted by the Executive Secretary. The auditors were informed that in the past two years (1985 and 1986) eight training seminars have been held; four in Philadelphia, two in Pittsburgh and two in Scranton. The auditors obtained the attendance list for four of these seminars (the attendance lists were not available for the other four seminars) and found that they appear to have been well attended by the deputy commissioners. Topics covered during these seminars included review of rules and regulations and review of Commission procedural manuals.

- No written procedures for assigning deputy commissioners to Commission-regulated events. As described in Finding E of this report, the Commission does not have written policies or procedures specifying the manner in which deputy commissioners are assigned to Commission-regulated events. The auditors received questionnaire responses from many deputy commissioners and officials licensed by the Commission expressing concern over the manner in which they are assigned to Commission-regulated events.

- Chief deputy commissioners may not be knowledgeable about kick boxing. The auditors were informed by a kick boxing promoter, who indicated he had a fifth degree Black Belt in karate, that Commission personnel assigned to kick boxing events did not have background and knowledge in karate and kick boxing. This promoter informed the auditors of various incidents which he attributed, in large part, to the lack of knowledge about the sport of kick boxing on the part of the personnel assigned by the Commission to supervise these events. The promoter also expressed his concern that experience with

kick boxing or karate is essential for the safe regulation of a kick boxing event by the chief deputy commissioner.

- Deputies do not carry proper identification. The auditors received correspondence from the Director of Operations of a large arena who indicated that when their security personnel ask for identification from the Commission's deputy commissioners, they are "...shown a badge which in some cases looks like it could be purchased from any store; other badges look official with the State Seal and proper wording." The Director of Operations also indicated that when they ask Commission deputies for identification, "...sometimes we are shown a letter from a chief deputy, typed on white paper without any letterhead." In response to this letter, the Commission's Executive Secretary replied "...all of the badges are state issue, although some may appear phony."

J. DEFICIENCIES RELATED TO LICENSING, TRAINING AND ASSIGNMENT OF COMMISSION LICENSEES

FINDING: Few requirements exist to become a Commission licensee, and some of the requirements which do exist do not appear to be enforced. Further, statutory and regulatory requirements for training of Commission licensees have not been fulfilled, and frequent concerns were voiced to the auditors regarding the procedures used by the Commission in assigning officials to Commission-regulated events. The auditors also found the term for licenses (each calendar year) to be problematic and that licensees are not issued effective license cards for identification purposes. LB&FC staff recommendations are presented below.

RECOMMENDATIONS:

1. The auditors recommend that the Athletic Commission, with the advice and consent of the Medical Advisory Board (once activated), develop requirements for the types of medical examinations and fitness tests which should be administered to professional boxers and other licensees prior to licensing or relicensing.
2. The auditors recommend that the Commission adhere to its procedures requiring the Commission to investigate a boxer's amateur experience or training prior to licensing. If training facilities are licensed, the auditors recommend the Commission, with advice from the Medical Advisory Board (once activated), consider promulgating regulations regarding the amount and type of training a boxer must undergo in a licensed facility before being permitted to box in a professional bout.
3. The auditors recommend that consideration be given to the development of additional license requirements and procedures for those attendants and ring officials most directly involved in protecting the health and safety of professional boxers, including in particular managers, seconds and referees, in order to provide for better protection of boxers.
4. It is recommended that the Executive Secretary conduct required medical seminars and training programs for all Commission licensees. Until the Medical Advisory Board is re-established, the Executive Secretary should work with the Commission to determine the materials to be covered in the required medical seminars.
5. The auditors recommend that as part of the license application fee all Commission licensees be provided with a copy of the Commission's rules and regulations. Additional copies of this booklet should also be made available at cost to interested persons at Commission-regulated events.
6. The auditors recommend that the Commission develop written guidelines and procedures for the assignment of ring officials licensed by the Commission. It is recommended that these procedures provide for the rotation of

assignments among qualified officials, with due consideration toward geographic location and the expertise of the individuals assigned. (See also Recommendation E.1.)

7. It is recommended that the Commission issue photo identification cards to all its licensees. (See also Recommendation F.2.)

8. It is recommended that the General Assembly consider amending Section 312 of the Athletic Code which requires that all licenses issued by the Commission expire on December 31. If this requirement is removed, the auditors recommend that the Commission issue 12-month licenses. Such a system might not be difficult to administer if, for example, in conjunction with photo identification cards the Commission issued stickers to be placed on the reverse side of the card indicating the license expiration date. If such a system is not feasible, the auditors recommend that the Commission develop a prorated licensing fee schedule so that Commission licensees are not charged, for example, the full license fee for a license which may expire in a week or 10 days.

DISCUSSION:

Through the auditors' review of the Pennsylvania Athletic Code and Commission regulations and procedures, the auditors found the following deficiencies with regard to Commission licensees:

- Few requirements of competency or fitness exist in statute or regulation to obtain a license from the Athletic Commission. The Athletic Commission issues licenses in 13 different categories, including professional boxers, referees, judges, managers, promoters, and matchmakers. (Please see Section III of this report for a complete listing.) The auditors reviewed license requirements for those individuals which would appear to be most important to the health and safety of professional boxers, and found that there were few requirements to ensure that these individuals are qualified and competent. (See Exhibit B for a sampling of comments received by the auditors on Pennsylvania's licensing requirements.) For example:

- A professional boxer must be between the ages of 18 and 36, of good moral character, physically fit and mentally sound, skilled in his profession, be of good reputation and not be addicted to the intemperate use of alcohol or narcotic drugs. Although Commission procedures require that the Commission determine if the boxer has had sufficient prior amateur experience, where he trains and the name of his trainer, such information was generally not found in the professional boxer licensure files reviewed by the auditors. In Pennsylvania, no medical tests or examinations are required prior to obtaining a professional boxer's license.

In New York State, all boxers applying for an original license must be given an electroencephalographic (EEG) examination, chest x-ray, electrocardiographic (EKG) examination, serological tests and other tests as may be required by a physician approved by New York's Medical

EXHIBIT B

EXAMPLES OF SURVEY RESPONSES REGARDING LICENSING REQUIREMENTS
IN PENNSYLVANIA

1. There is a need for a stricter method for licensing officials with reference to the allegation that some boxing referees and judges have poor eyesight and a recommendation that such officials have yearly eye checks and that minimum standards be established.
2. Suggestion is made that there must be a better way developed to license officials and the opinion was expressed that it is wrong to license anyone who simply fills out an application and pays the fee.
3. Suggestion is made that more extensive background checks and investigation of an individual's background should be undertaken before licensing takes place.
4. Statement is made that most officials, managers and contestants do not have the knowledge of rules and regulations which is necessary and suggests that copies of pertinent section of rules and regulations (e.g., related to boxing, professional wrestling, kick boxing, and so forth) be issued to licensees at licensing time.
5. Suggestion made that there should be a method of screening referees for boxing and that licenses should not be issued without some sort of testing process. Also suggested is that an eye exam be required once a year for referees to determine if correction is necessary.
6. The statement is made that "anyone can get a license just by filling out an application and paying the required fee."

Source: Response to LB&FC Sunset Performance Audit Questionnaire to Commission staff and licensees.

Advisory Board. To renew his license, the boxer must submit to a thorough medical examination by a physician approved by the Medical Advisory Board. This examination is to include a complete history of the applicant and any other laboratory procedure (many of which are enumerated in regulation) which the physician may deem necessary. As a condition for licensure or renewal of a license in New Jersey, the boxer must undergo a thorough medical examination (including EEG, EKG, urinalysis and ophthalmological exams), with the requirement that the exam be conducted by a physician certified in neurology or neurosurgery.

In March 1981, the Pennsylvania Medical Advisory Board made numerous recommendations to the State Athletic Commission regarding the types of examination which should be given to professional boxers prior to initial licensure. At that time it was recommended that the medical examination should consist of blood counts, chest X-rays, serology, urinalysis, and EEG and EKG tests. It was also recommended that all professional boxers undergo a similar medical examination annually, with EEG and EKG examinations being performed at the physician's discretion.

- To become a licensed manager in Pennsylvania, one need only be of good character and reputation, submit a completed application with a check or money order for \$40, and submit a \$10 check for a background search. In New York, managers must pass a written and/or oral examination relating to the Commission rules and regulations, and must exhibit a knowledge of the background, skills and experience of each boxer the manager seeks to place under contract.

- To obtain a referee license in Pennsylvania one must serve an apprenticeship of not less than three months, during which the applicant is to study the Pennsylvania Athletic Code and the Commission's rules and regulations. Upon completion of this apprenticeship, the applicant is to undergo a written or oral examination. In New York, referees must also undergo a written or oral examination and serve an apprenticeship. However, the apprenticeship in New York specifically includes having refereed a minimum of 100 rounds of amateur and/or out-of-state professional boxing. Additionally, after the referee has been licensed, the referee is to be assigned a minimum of four 4-round preliminary bouts, followed by a minimum of no less than four 6-round preliminary bouts. The referee's performance and conduct during these bouts is to be reviewed and evaluated by an official designated by the Commission. If the referee's performance is deemed satisfactory, he may then officiate bouts of eight rounds or more.

- To obtain a second's license in Pennsylvania, the applicant is to be of good character, have a thorough knowledge of training fighters, sufficient experience as a trainer, and understand his responsibilities to the fighter. Although the Commission's regulations require that the qualifications of all seconds will be "inquired into carefully" before licensing, the auditors' review of a small sample of sec-

onds' license files indicate that, at least in recent years, such inquiries have not been made. In both New York and New Jersey, prior to receiving a license seconds must pass a written and/or oral examination relating to the Commission's rules and regulations, treatment of injuries, physical conditioning, health care, nutrition, training, first aid, effects of drugs and alcohol and the bandaging of a boxer's hands.

- Training seminars not conducted for Commission officials. Section 204.1 of the Athletic Code requires that the Commission conduct at least three medical training seminars per year for all ring personnel. In addition, Section 3.1(e) of the Commission's regulations requires that the Executive Secretary set up and conduct annual training programs for all ring personnel and other licensees. As can be seen from Exhibit C, a need for these training programs appears to exist. The auditors were informed by the Executive Secretary, however, that although he occasionally holds "annual" training seminars for officials, he does not conduct medical training seminars for ring personnel or other licensees, due in part to the lack of a Medical Advisory Board to assist in the development of these programs.

- No written procedures for assigning officials to Commission-regulated events. As described in Finding E of this report, the Commission does not have written policies or procedures specifying the manner in which ring officials are assigned to Commission-regulated events. Through interviews and questionnaire responses, many ring officials expressed concerns to the auditors over the manner in which assignments are made to Commission-regulated events.

- Licensees often do not receive licenses. The auditors were informed by many Commission licensees that they pay their license fee but never receive a license. When this issue was discussed with the Commission's Executive Secretary, the auditors were informed that license cards are only sent to those applicants who produce photographs for the Commission's records. According to Commission procedures, after paying the required license fee, the licensee is given a receipt which acts as a temporary license at the time of the event. However, unless the licensee submits photographs to the Commission, he will not receive a permanent license card.

- Licenses issued annually with no proration. Section 312 of the Athletic Code requires that all licenses expire on December 31. As a result, boxers and other licensees who first participate in an event in December must pay the annual fee again if they wish to participate in another event only a month later.

EXHIBIT C

EXAMPLES OF SURVEY RESPONSES REGARDING TRAINING NEEDS
IN PENNSYLVANIA

1. Suggestion is made that training courses for ring officials be established.
2. Suggestion is made by a referee and judge respondent that needed immediately is the conduct of mandatory monthly clinics on the "fine art of judging a fight" and the "skill required and proper technique for refereeing."
3. Suggestion made that the operations of the Commission could be improved by setting up seminars and training sessions between all interested promoters, boxers, managers, etc.
4. Recommendation made that there needs to be formal training for judges, referees and other officials.
5. A respondent licensed as a judge indicated he believes that the Commission should have clinics to keep officials abreast of new rules or developments in the state involving boxing.
6. Opinion is expressed that the licensed judges of the Commission have not had adequate training.
7. An announcer respondent suggests that some sort of periodic meeting be held between the Commission and the licensees and other participants to go over rule changes, suggestions, complaints or any other comments that may come up. It is pointed out that this occurs in New Jersey.
8. Respondent suggests that rules interpreters be trained and assigned throughout the state and that the periodic regional office meetings be held with officials, referees and other interested persons from those regions.

Source: Responses to LB&FC Sunset Performance Audit Questionnaires to Commission staff and licensees.

K. WEAKNESSES IN COMMISSION FISCAL AFFAIRS

FINDING: Deficiencies exist in a number of aspects of the management of the fiscal affairs of the State Athletic Commission, including poor internal controls over fees collected at Commission-regulated events, delays in transmitting fee revenues and in payment of deputy commissioners, no regular comparison of Commission-generated fees to expenditures (fees exceeded expenditures by over \$100,000 in FY 1985-86), license fees which are set in law (thus not permitting a convenient mechanism for balancing fees with expenditures), indirect costs not charged to the Commission, and inconsistencies and deficiencies in the Commission's determination of the amount owed by promoters to the Commonwealth. LB&FC recommendations are presented below.

RECOMMENDATIONS:

1. The auditors recommend that the Department of State, in conjunction with the Department of Revenue and the Comptroller's Office, develop improved internal control procedures for the collection and handling of Commission license fees. It is recommended that these procedures provide that:
 - Primary responsibility for computing and filing the 5% additional license fee should lie with the promoter of the event. The promoter should be required to complete and sign a form, similar to a tax return, signifying that the information presented is complete and accurate and that incorrect information could subject the promoter to fines and penalties. Major promoters should be subject to annual post-audits (minor promoters could be selectively audited), with fines and penalties imposed for submitting falsified forms.
 - Checks from promoters should be submitted to the Commission within a specified time, with the Department of State having an additional specified period of time in which to prepare and submit the check and transmittal forms to the Department of Revenue.
 - Commission clerical staff should review the promoter's report for accuracy and reasonableness. As a check on the promoter's report, the auditors recommend that a deputy commissioner at the event be provided with the seating capacity of the show venue and estimate attendance. This estimate should be used to monitor promoter reports; estimates which materially exceed reported attendance could then trigger post-audits.
 - Commission staff with responsibility to complete or review Commission forms should initial and date all such forms to provide an audit trail and to establish lines of accountability.
2. It is recommended that consideration be given to establishing a restricted revenue account for revenues generated by the State Athletic Com-

mission to ensure that fees collected from the Commission's licensees are spent on activities related to the Athletic Commission's duties and responsibilities. If the Commission is included in the Bureau of Professional and Occupational Affairs, use could be made of the existing restricted revenue account maintained for other licensure boards within the Bureau. It is also recommended that the General Assembly amend the Pennsylvania Athletic Code to include a provision requiring that the Commission's projected revenues equal projected expenditures.

3. The auditors recommend that the General Assembly amend the Pennsylvania Athletic Code to allow the State Athletic Commission to set license and permit fees. The fee amounts should be reviewed regularly with the goal that projected fee revenues should equal projected Commission expenditures.

4. It is recommended that representatives from the Department of Revenue be available to the House State Government Committee to provide consultation and advice to the Committee regarding proper controls and procedures for collecting and accounting for the cash and checks received by the Commission. The Department of Revenue representatives should also be prepared to explain relevant aspects of the study currently being conducted by the Department of Revenue and the Comptroller's Office of the Department of State's cash management procedures.

5. The Department of State should take the lead in establishing procedures to ensure timely payments for the Commission's deputy commissioners.

6. The Executive Secretary should alert all chief deputies that the 5% additional license fees is calculated net of local taxes and that complementary tickets are to be included in the 5% additional license fee calculation. These base gross receipt figures should then be checked by the Commission's clerical staff to ensure that these provisions are accurately and consistently applied.

7. The auditors recommend the General Assembly consider amending Section 318 of the Athletic Code to reflect the development of "hybrid" events for which only a portion of the total gross receipts can be attributed to Commission-regulated activities. It is also recommended that the Commission promulgate regulations specifying how base gross receipts are to be calculated for hybrid events.

8. The Commission should determine if any Commonwealth revenues have been lost to date by not collecting the statutory 5% fee on broadcast rights of Commission-regulated events held in Pennsylvania. Any such fees owed the Commonwealth should be collected, if possible, and the 5% additional license fee should be collected on the proceeds of the sale or lease of broadcast rights of future events.

9. The auditors recommend that the General Assembly give consideration to including the Secretary of Revenue (or his designee) as an ex officio member of the State Athletic Commission.

10. The auditors recommend that the Department of State establish cost accounting procedures to determine indirect costs for the Athletic Commission. These costs should then be charged to the Commission.

DISCUSSION:

The auditors found the following weaknesses related to the Commission's fiscal affairs:

- Poor internal controls over fees collected at Commission events. The chief deputy commissioner is responsible for collecting monies due the Commonwealth from the licensure of boxers and other participants and from the 5% additional licensure fee on gross receipts. With regard to licensing participants, the chief deputy collects licensure fees, generally in cash, from those individuals not already licensed by the Commission. The chief deputy is also responsible for counting unsold tickets, calculating the 5% additional licensure fee, collecting the monies due the Commonwealth and completing the After Contest Report. The monies received from the 5% fee may be in the form of a check, money order or cash. Such procedures place both the accounting function and the actual custody of cash in the hands of the same individual. Because there is no reconciliation function (i.e., a second individual does not count ticket stubs or audit the books of the promoter), there would appear to be few controls to prevent fraud by the chief deputy or collusion by the chief deputy and promoter. Although the auditors found no evidence to suggest that such fraud has occurred, the auditor's did note that figures on some After Contest Reports have been modified (for example by crossing out one figure and substituting another or by white-out).

Tight controls over the printing, sale and accounting for tickets at Commission events might act to compensate for the lack of separation of duties (i.e., accounting and cash custody functions with the same individual). Such strict controls, however, do not exist. According to the chief deputies interviewed by the auditors and as witnessed by the auditors themselves, ticket stubs and unsold tickets are not normally counted at the Commission events. One chief deputy interviewed at a wrestling event indicated that he did not believe it necessary to count the tickets sold and unsold because he trusted the officials at the facility where the event was being held and, from experience, he could determine the approximate size of the crowd. The auditors also reviewed After Contest Reports in which the ticket sales were clearly estimated. The auditors also spoke with a professional boxing promoter who holds events frequently in Pennsylvania and were informed from him that no one from the Commission has ever requested to count ticket stubs or unsold tickets since the early 1970s.

- Commission revenues exceed Commission expenses. As discussed in Finding C of this report, during recent years Commission revenues have outpaced Commission expenditures. For example, in FY 1985-86 the fees generated from Commission-regulated events (\$296,608) exceeded Commission expenditures (\$195,135) by \$101,473. These revenues, however, are not specifical-

ly designated for use by the Athletic Commission, and appear to have been used by the Department of State to support other programs within the Department. Despite its status as a "profitable" Commission, the Department has not provided needed administrative services to the Commission.

- Commission fees set in law. The amount the Commission charges for license and permit fees is established in the Pennsylvania Athletic Code. During sunset review of various professional licensing boards within the Department of State's Bureau of Professional and Occupational Affairs, the General Assembly included language in enabling legislation to allow the various boards and commissions to set fees such that projected revenues will meet or exceed projected expenditures. Such flexibility permits boards and commissions to more readily adapt their fee structures to provide a balance between fees charged to licensees and the associated expenditures for their regulatory activities.

- Delays in processing event and expense payments to deputy commissioners. The auditors were informed by numerous deputy commissioners of extended delays in receiving their per diem pay from the Department of State; one deputy reported delays of four to five months in receiving his pay. The auditors spot-checked deputy payments for three events held in mid-1986, and found that payment for one event was made in 28 days, payments for a second event required 44 days, and a payment for a third event was not made until 57 days after the event.

- The Athletic Commission is not charged indirect costs. The auditors were informed by the Department of State's fiscal office that the State Athletic Commission is not charged for indirect costs, such as the time spent by the Secretary of the Commonwealth, the Comptroller's Office, or the Department of State's Personnel or Fiscal offices. The Department of State's fiscal officer informed the auditors that he has considered assessing indirect costs to the Commission. However, the Department had been granted sufficient appropriations and augmentations to absorb the Commission's indirect costs, so from the Department's perspective there has been no pressing need to charge indirect costs to the Commission.

- Some promoters in Pennsylvania may have paid more in additional license fees than necessary under the Pennsylvania Athletic Code. Section 318 of the Athletic Code states that the five percent additional license fee on gross receipts is to be exclusive of any tax imposed by any political subdivision of the Commonwealth. A September 1986 letter from the Department of State's Chief Counsel affirmed that the five percent fee is to be imposed only on the balance of receipts following the deduction of local taxes. The auditors reviewed After Contest Reports from the Philadelphia region and found that local taxes were deducted from the gross receipts of some but not all of the events reviewed.

- Checks not deposited on a timely basis. SAC regulations require that all promoters are to pay the additional license fee within 48 hours after the event. The auditors found examples, however, where these fees were not

transmitted to the Department of State's fiscal office in Harrisburg until more than two months after the event had taken place. For example, a check and money order for over \$9,000 for an event which occurred on September 20, 1986, was not prepared for transmittal to the Department of State's fiscal office in Harrisburg until December 3, 1986. This transmittal also contained a check for over \$2,500 for another event which occurred on September 20, 1986.

- No clear policy with regard to "hybrid" events. A professional wrestling show was to be held following a 76ers basketball game on December 20, 1986. According to Section 318 of the Athletic Code, the Commission is to collect a 5% additional license fee on the gross receipts of all tickets sold and complimentary tickets issued. The Acting Chief Counsel to the Department of State, in response to a request made by the Commission's Chairman, indicated that the appropriate allocation of the gate receipts of a "hybrid show" had been addressed twice before by the Commission. In one instance (a basketball game with a wrestling show during half-time) the Commission imposed a five percent fee upon the contract price of the wrestling event; in the second situation (a combination wrestling show, rock concert and air show), the Commission imposed a pro rata share of the gate receipts based on the length of the wrestling event as compared with the whole. The auditors were also informed of a third hybrid event; an amateur boxing show held in conjunction with a closed circuit professional boxing show. At this show, the tickets cost \$25, \$24.99 of which was attributed to the closed circuit show. The five percent additional license fee was calculated on the one cent, yielding a gross receipts base of \$99.03 versus \$221,245.

- The Athletic Commission has not been enforcing the statutory 5% fee on television broadcast rights. Section 318 of the Pennsylvania Athletic Code authorizes the Athletic Commission to charge 5% of any receipts a promoter receives from the granting of the right to broadcast an event in any manner when the actual contest or exhibition is held within the Commonwealth. According to the Department of State's Chief Counsel, Section 318 does not authorize the Commission to charge 5% of receipts from closed circuit television viewing within the Commonwealth which originated from an event held outside of the Commonwealth. However, the Athletic Commission does have the authority to charge the 5% fee for broadcasting receipts from in-state events. The auditors discussed this provision of the Athletic Code with the Commission's Chairman and the Executive Secretary, both of whom indicated that the Commission has not attempted to charge the 5% fee on broadcast rights. The auditors also spoke to officials in New Jersey, which has a similar provision in their Athletic Code, and were informed that New Jersey enforces its provision. In discussing this fee provision with wrestling promoters and broadcasters in Pennsylvania, the auditors were informed that normally the wrestling promoter pays the broadcaster to televise wrestling shows, and that the promoter does not receive revenue from these broadcasts. The auditors, however, did not attempt to determine the actual contractual arrangements between these promoters and broadcasters. The Chairman of the Athletic Commission informed the auditors that he

has sent correspondence to promoters who have held events in Pennsylvania in recent years in an attempt to determine how much, if any, money might be owed the Commonwealth through this provision.

- Additional licensure fee not collected on complimentary tickets. Section 318 of the Athletic Code requires that the 5% additional license fee is to be collected based on the face value of all tickets sold and complimentary tickets issued. The auditors reviewed Commission documents which show that, at least for some events, complimentary tickets have been excluded from the 5% fee. For example, the auditors reviewed one professional wrestling show held in the Philadelphia region in October 1986 in which \$2,712 in free tickets were issued, but these tickets were excluded from the base gross receipts used to calculate the 5% fee. At a professional boxing show also held in October 1986, 384 complimentary and press tickets were issued with a total value of \$4,260, but the price of these tickets was not included in the base gross receipts used to calculate the 5% additional license fee.

L. POSSIBLE NEED FOR ORGANIZATIONAL RELOCATION OF STATE ATHLETIC COMMISSION

FINDING: As demonstrated in this report, the Commission's statutory, regulatory and administrative responsibilities have been poorly executed. Although various reasons have been provided to the auditors for these weaknesses, it is the auditors' opinion that until clear lines of authority, responsibility and accountability are instituted for the Commission and its staff, weak administrative performance is likely to continue. RECOMMENDATIONS: To establish administrative accountability, the auditors recommend that the General Assembly give consideration to amending the Administrative Code of 1929 to include the State Athletic Commission within the Department of State's Bureau of Professional and Occupational Affairs (BP&OA), with the Commission's Executive Secretary reporting to the Commissioner for Professional and Occupational Affairs. Should this occur, it will provide the resources and expertise of the Bureau in areas such as inspection, investigation, prosecution and records management, thereby providing a safer environment for the activities regulated by the Commission. The auditors also believe relocating the State Athletic Commission to the BP&OA represents a logical extension of the Bureau's role as a centralized staffing mechanism for the various professions and occupations licensed and regulated by the Department of State.

The current location of the State Athletic Commission within the Department of State is based on Reorganization Plan No. 6 of 1955. As one aspect of the sunset performance audit of the Athletic Commission, the auditors considered the possible organizational relocation of the Athletic Commission to the Department of State's Bureau of Professional and Occupational Affairs. This Bureau has administrative and fiscal responsibility for approximately 25 various boards and commissions under its administrative umbrella, including, for example, The State Board of Medical Education and Licensure, The State Real Estate Commission, and The State Board of Motor Vehicle Manufacturers, Dealers and Salesmen. The Commissioner for Professional and Occupational Affairs sits as an ex officio member on all of these boards and commissions.

While none of the boards and commissions under the Bureau of Professional and Occupational Affairs may be directly comparable to the Athletic Commission, the Bureau does have considerable expertise in licensing, investigation, budget and accounting, legal services, and other support services that would be useful to the Commission. Further, the Athletic Commission's Executive Secretary is physically located in Harrisburg within the offices of the Bureau of Professional and Occupational Affairs.

Perhaps the most significant argument against such a move would be a reduced status, real or perceived, in the eyes of current and potential Commission members, since the Commission currently has a great deal of autonomy. As demonstrated in this report, however, the current organizational format has not worked well and, in addition to causing considerable confusion over the proper duties and responsibilities of the Commission and its staff, may be a contributing factor to the Commission's poor administrative performance.

III. BACKGROUND DESCRIPTIVE INFORMATION ABOUT THE STATE ATHLETIC COMMISSION

A. Legal Background

The State Athletic Commission was created in 1929 by Act 1929-175 and placed in the Department of Military Affairs. Act 1937-373 amended Act 1929-175 and transferred the Commission to the Department of Revenue. Under the Reorganization Plan of 1955, the State Athletic Commission was transferred to the Department of State with all the functions, powers and duties of the Secretary of Revenue to be executed by the Secretary of the Commonwealth.

In 1955, the General Assembly enacted the "Pennsylvania Athletic Code", Act 1955-131, 4 P.S. §§30.101 - 30.905, which conferred upon the Commission the sole direction, control and jurisdiction over all amateur and professional boxing and professional wrestling contests and exhibitions held within the Commonwealth except those specifically excluded. The Commission was also given sole control, authority and jurisdiction to issue, withhold, suspend or revoke any license or permit provided for in the Act. The Commission has the right to promulgate rules and regulations governing the form and content of contracts between promoters, co-promoters, professional boxers, wrestlers and managers. Act 1955-131 also created a Medical Advisory Board which was charged to prepare and submit for Commission approval, standards for the physical and mental examination of boxers and wrestlers to safeguard their health. The Commission's rules and regulations regarding amateur and professional boxing and wrestling can be found at 58 Pa. Code §1.1 through §33.12.

The Pennsylvania Athletic Code was further amended by Act 1983-62. This act placed kick boxing under the Commission's jurisdiction by requiring that kick boxing contests or exhibitions must comply with the provisions of the Athletic Code and the Commission's rules and regulations. In addition, the Act directed the Commission to conduct at least three mandatory medical training seminars for all ring personnel and designated Commission employees and to establish and maintain a register for all Pennsylvania licensed boxers, recording the results of each bout in which a boxer is involved. The amendments further provide that the Commission may suspend a boxer's license for up to 30 days for a technical knockout with minor injuries and up to 45 days for head injuries. Boxers receiving a knockout may receive up to a 90-day suspension and shall undergo an EEG within 24 hours of the knockout.

B. Commission Composition And Organizational Structure

The Administrative Code of 1929 (71 P.S. §137) provides for three members to the Pennsylvania State Athletic Commission to be appointed for two-year terms and the Secretary of the Commonwealth who serves as an ex officio member. Members are appointed by the Governor with the advice and consent of a majority of the Senate.

Two members of the Commission constitute a quorum and the concurrence of at least two members is necessary to render valid actions by the Commission. Each member of the Commission, except the Secretary of the Commonwealth and the Chairman, is entitled to receive a salary of \$7,000 per year. The Chairman is eligible to receive a salary of \$7,500 per year. Meetings are held, generally quarterly, in one of the four regional offices (Harrisburg, Pittsburgh, Philadelphia and Scranton). The site of each meeting is determined by the Commissioners.

As of late January 1987, the Commission employed approximately 53 persons (including the three Commissioners) located in the four regional offices. Administrative and staff services are provided by a full-time executive secretary, one full-time administrative assistant, two full-time clerical persons and one part-time clerical person. In addition, the Commission employs approximately 45 deputy commissioners on a per diem basis. The deputy commissioners are responsible for monitoring the conduct of various athletic events to ensure compliance with the laws and rules and regulations of the Athletic Commission. Activities performed by the deputy commissioners are to include:

- ensuring that each contestant undergoes a physical examination prior to the event,
- verifies boxer's weight limit as specified by the contract,
- monitors access to dressing rooms and oversees the wrapping of boxers' hands,
- licenses all participants and officials,
- monitors the activities of seconds in each fighter's corner,
- monitors the flow of spectators entering the event, making sure tickets are collected and torn and that ticket stubs are reserved for later use in verifying gate receipts.

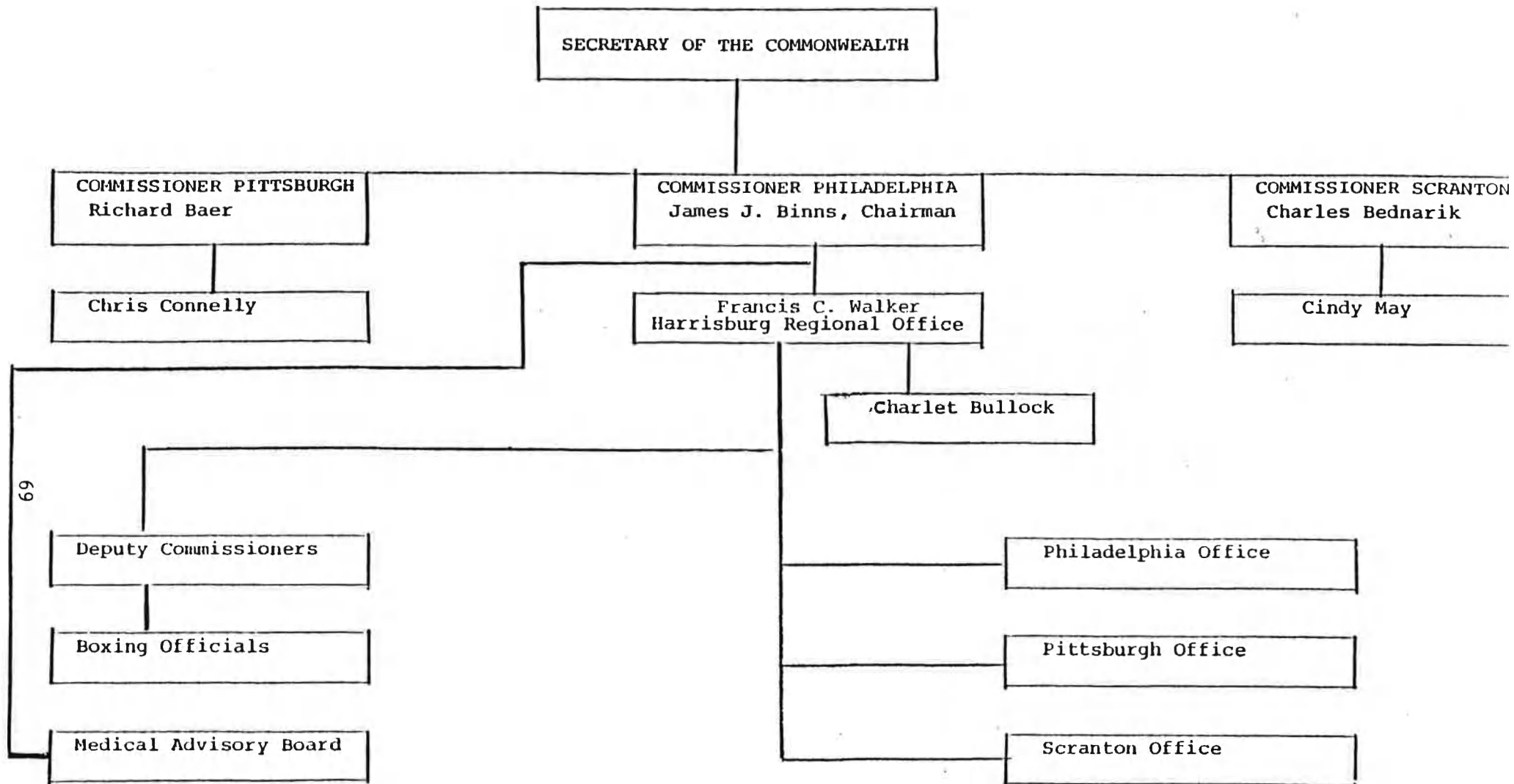
In addition, deputy commissioners serve as revenue officers for the Commonwealth and collect all monies due to the Commonwealth. The deputy commissioners are required to submit reports detailing the activity at the shows and the monies collected. A chief deputy commissioner is appointed for each event and is given overall responsibility for the event. Deputy commissioners are assigned to shows by the various individual Commissioners.

An organizational chart appears on Exhibit D and Table 1 contains a breakdown of employees by regional office.

C. Licensure and Fee Information

The State Athletic Commission reports that as of October 1986, there were a total of 873 current licenses issued. The number for individual license classes is as follows: announcers 19, judges 22, physicians 13, referees

EXHIBIT D
STATE ATHLETIC COMMISSION



Source: Provided to the auditors by Department of State, Bureau of Administrative Services,
Personnel Management Division, January 1987.

TABLE 1

State Athletic Commission Personnel

<u>Harrisburg Office</u>	Executive Secretary	1
	Clerical Staff	1
<u>Philadelphia Office</u>	Commissioner	1
	Deputy Commissioners ^{a/}	20
	Administrative Assistant	1
<u>Pittsburgh Office</u>	Commissioner	1
	Deputy Commissioners ^{a/}	20
	Clerical Staff	1
<u>Scranton Office</u>	Commissioner	1
	Deputy Commissioners ^{a/}	5
	Clerical Staff ^{b/}	<u>1</u>
Total		<u>53</u>

a/Per diem employees.

b/Part-time employee.

Source: Developed by LB&FC staff from information provided by the Department of State and the State Athletic Commission. Deputy Commissioners as of November 1986, other personnel as of late January 1987.

31, promoters 19, trainers 22, boxers 294, managers 78, timekeepers 12, wrestlers 199, seconds 161, and matchmakers 3. Table 2 shows the annual fee for each class of license. In addition to these fees, each promoter must pay an additional license fee equal to 5% of the gross receipts of the event. The Commission also charges permit fees based on the seating capacity of the arena and the size and class of the city in which the event is held. These fees range from \$10 to \$50. A foreign co-promoter's permit (for promoters who have no place of business in Pennsylvania) costs \$100, and bond filing fees are \$10.

D. Revenue and Expenditure Information

Table 3 shows the revenues and expenditures of the State Athletic Commission for the period FY 1982-83 through FY 1985-86. Table 4 shows a breakdown of the Commission's expenditures during FY 1985-86.

E. Goals of the Pennsylvania State Athletic Commission

In the Legislative Budget and Finance Committee Pre-Audit Survey Questionnaire, the Commission identified its goals and responsibilities as follows:

1. Expand the boxing industry in the Commonwealth and increase the number of Championship shows that are held. Grant permits and sanctions for shows.
2. Improve the administration of the Commission. Hold hearings on purses withheld and on revocation of licenses.
3. Centralize all records, including licenses, After Contest Reports, training and payroll.
4. Establish new safety procedures through pre-licensure and physical examinations.
5. Computerize all of the boxers records and history. License all twelve categories of licenses.

TABLE 2

Licensure Fees of the State Athletic Commission

<u>License</u>	<u>Fee</u>
Promoter.....	\$100
Booking Agent.....	35
Referee.....	35
Judge.....	35
Announcer.....	20
Professional Wrestler.....	20
Second.....	20
Matchmaker.....	50
Physician.....	40
Manager.....	40
Timekeeper.....	25
Professional Boxer.....	20
Trainer.....	20

Source: State Athletic Commission

TABLE 3

**Revenue and Expenditures of the State Athletic Commission
FY 1982-83 through FY 1985-86**

<u>Fiscal Year</u>	<u>Revenues</u> ^{a/}	<u>Expenditures</u> ^{b/}
1982-83	\$190,382	\$234,763
1983-84	227,117	226,956
1984-85	229,893	197,838
1985-86	<u>296,608</u>	<u>195,135</u>
4-Year Total	<u>\$944,000</u>	<u>\$854,692</u>

a/Funds are generated through license fees, a 5% additional license fee on gross receipts, permit fees, bond filings and fines. Most revenues (e.g., 91 percent of the total revenues received in FY1985-86) come from the 5% additional license fee.

b/Includes encumbrances.

Source: Department of Revenue, Reports of Revenue and Receipts and Bureau of Financial Management Report #10. FY 1985-86 data from ICS Accounting Report No. XABC6410 (former report 10).

TABLE 4

Breakdown of Expenditures of
the State Athletic Commission for FY 1985-86

Personnel.....	\$163,498
Travel.....	17,613
Telephone Expenses.....	5,219
Printing.....	2,567
Postage.....	1,513
Other Operating Expenses ^{a/}	4,183
Fixed Assets.....	<u>542</u>
	<u>\$195,135</u>

a/Figure includes encumbrances.

Source: ICS Accounting Report No. XABC6410 (former report 10) for June 30, 1986.

IV. DEFINITION OF THE AUDIT PROCESS AND METHODOLOGY

A. Description of General Audit Methodology

Interest in the accountability of government spending has increased substantially over the past few years. In response to this interest by public officials, legislators and private citizens, much growth has taken place in the academic community, generally under the heading of evaluation research, and in the professional auditing community, under the title of performance auditing. The auditing profession has identified a number of specific requirements and standards that define methods and standards in the performance audit process. These characteristics of an acceptable performance audit process are widely accepted and are followed by the U.S. General Accounting Office and various state audit organizations. Some of the more important requirements and standards are:

- all audit findings must be fully supported by an objective analysis of all pertinent facts,
- all auditors and their supervisors must be totally independent from the agency being audited,
- the performance audit report shall include information on any impairments encountered during the audit, such as denial of access to information,
- the audit agency should obtain the views of the audited agency on the audit findings and recommendations prior to the audit's public release.

It is widely recognized that a performance audit cannot address in detail all problem areas discovered during the audit process. The accepted practice is to identify in the early stages of the audit the most important problems and to structure the audit so that such problems are addressed by priority. As a result, frequently, some issues are not addressed in the audit simply because other issues are deemed of greater importance.

B. Explanation of Efficiency and Effectiveness

A sunset performance audit is aimed at an evaluation of several aspects of the agency being audited. Two of the more important aspects are the effectiveness of the agency in meeting its own objectives and the program goals intended by the Legislature and the efficiency with which the agency utilizes its resources.

--Effectiveness

This term refers to the relationship between the agency's actual results and the desired results for which the agency was established. The measurement of effectiveness requires that the agency being audited has identified its goals and objectives and has a method for measuring them, or that such definition and measurement can be accomplished by the agency conducting the audit.

--Efficiency

In performance auditing, this term has a specific definition; it is the ratio of agency input (e.g., dollars expended or personnel used) to agency output (e.g., products or services). It is usually expressed in terms of activities per dollar or vice versa. Generally, judgement on the efficiency ratio can be shown in comparison with the efficiency ratio of similar agencies or when an alternative, less expensive method that will yield acceptable output can be identified.

C. Description of the Specific Methodology Used in the Audit

The information presented in this audit report has been collected from a variety of sources. An in-depth survey was completed by the Commission, and questionnaires were mailed to all Commission members. Reviews of relevant statutes and regulations, especially the enabling legislation, was another major audit activity. Interviews were conducted with all Commissioners, key administrative personnel in the Commission and the Department of State, Department of Corrections officials and with numerous other individuals and organizations with an interest in professional and amateur boxing and wrestling (e.g., the USA Amateur Boxing Federation, USA Wrestling Association, American Association for the Improvement of Boxing, Ralph Citro, Inc., and the International Boxing Federation/United States Boxing Association).

Contact was made with a number of athletic commissions in other states, including New York, New Jersey, Maryland, Michigan and Florida. Contact was also made with legislative staff members, and LB&FC staff attended a meeting of the House Special Commission on Boxing. To gain an understanding of their experiences with and opinions of the State Athletic Commission, questionnaires were sent to all deputy commissioners, chief deputy commissioners and licensees of the Commission. LB&FC staff attended various boxing and wrestling events throughout the Commonwealth to gain an understanding of the Commission activities at these events and interviewed a number of professional boxing and wrestling promoters. Much of the information used in this report was obtained through the Commission's administrative files.

D. Explanation of How the Seven Sunset Criteria were Applied in this Audit

This sunset audit was planned so as to address the seven sunset criteria specified in Act 1981-142. Operational definitions of these seven criteria were developed and served as the framework within which the audits were conducted. Below is a brief description of how each of the sunset criterion was applied to the audits.

1. Whether termination would significantly harm or endanger the public health, safety or welfare.

This criterion was addressed through a review of the legally mandated functions of the Commission and a determination of whether the termination of these functions would pose a serious threat to the public.

2. Whether there is an overlap or duplication by other agencies that permit the termination of the agency.

This criterion asks whether or not any other entity, such as the federal government, other state agency, or private professional association, currently performs the same major functions, either directly or indirectly, as does the Commission. If overlap does exist, then, termination of the Commission may be possible without significant harm resulting to the public.

3. Whether there is a more economical way of accomplishing the objectives of the agency.

The key information related to this criterion is whether the overall cost of the Commission can be reduced while still enabling the Commission to accomplish its objectives. The criterion also asks whether some other entity, governmental or private, can accomplish the same results at a lesser cost.

4. Whether there is a demonstrated need, based on service to the public, for the continuing existence of the agency.

This criterion requires specific examples of Commission actions that have benefited the public and, particularly, the public health, safety or welfare. There may be overlap here with criterion #1 in that one implied question is "are the benefits that the Commission was originally established to provide at the time of the creation of the Commission still necessary?"

5. Whether the operation of the agency has been in the public interest.

A key word in this criterion is "operation," indicating that it deals with the Commission's activities. This criterion addresses both the effectiveness with which the Commission carries out its functions and whether the Commission has held the public interest above any possible self-serving interest of Commission members.

6. Whether the agency has encouraged public participation in the making of its rules and decisions, or whether the agency has permitted participation solely by the persons it regulates.

The specific question addressed by this criterion is "to what extent have the Commission's rules and decisions been open to and influenced by the public point-of-view?"

7. Whether there is an alternate, less restrictive method of providing the same services to the public.

This criterion asks whether a less restrictive means of regulation may adequately protect the public. An aspect of this criterion is whether unnecessary or burdensome requirements are placed on those affected by the Commission's operations, such as the boxers, wrestlers, managers, promoters and other persons licensed by the Commission.

APPENDIX



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PENNSYLVANIA
17120

SECRETARY OF THE COMMONWEALTH

February 20, 1987

Mr. Richard D. Dario
Executive Director
Legislative Budget
and Finance Committee
Room 400, Finance Building
Harrisburg, Pennsylvania 17120

Dear Mr. Dario:

I have reviewed your draft of the sunset performance audit report on the Pennsylvania State Athletic Commission. You and your staff should be commended for preparing a very thorough and well documented report.

There is no doubt that you have cited some very serious management problems, which require immediate attention. I have directed my executive staff to prepare a plan of action, based upon your audit findings. In addition, we have several of our own ideas to resolve these problems.

Thank you for your efforts to keep me apprised of this matter. If I can be of any further assistance to you in completing the audit, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "James J. Haggerty".

James J. Haggerty, Esq.
Acting Secretary of the Commonwealth

JJH/dmw

